

STATE OF OHIO
THE DEPARTMENT OF PUBLIC WELFARE

LAW BULLETIN

Laws Relating to Benevolent,
Correctional and Penal Institutions, Departments
and Officials and Kindred Subjects

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STATE OF OHIO DEPARTMENT OF PUBLIC WELFARE

LAWS RELATING TO BENEVOLENT, CORRECTIONAL, AND PENAL INSTITUTIONS, AND KINDRED SUBJECTS

This Bulletin is devoted to a compendium of the laws contained in the General Code pertaining to Benevolent, Correctional and Penal Institutions, the governing officials and to other closely related subjects. This does not comprise all the laws upon the subjects treated, but a careful selection has been made of such sections as seem to be most valuable and of general concern.

The introductory phrases printed in bold face type at the beginning of each section are not a part of the law, but simply serve as reference guides to the subject matter. Under each section of the General Code reference is made to the volume and page of the Annual Session Laws. For example, "97 v. 535" refers to a law appearing on page 535 of volume 97 of the acts of the General Assembly. By referring to the table given below we find that volume 97 contains the laws enacted at the session held in the year 1904.

A topical reference index precedes the subject matter. Excerpt from Opinions of the Attorney General and court citations, arranged according to General Code sections, will be found on the final pages of the Bulletin. All sections are printed in numerical order. It is therefore essential that the topical index be used as a means of reference to all laws bearing on the subject in mind.

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*Not considered of sufficient permanency to be given a general code number.

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LAWS OF OHIO

RELATING TO BENEVOLENT, CORRECTIONAL AND PENAL INSTITUTIONS—COMPILED FROM THE GENERAL CODE

OCTOBER, 1923

SECTION 1. Oath includes affirmation. The word "oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples to taking an oath. An affirmation has the same force and effect as an oath. (51 v. 57.)

SECTION 2. All officers must take an oath of office. Each person chosen or appointed to an office under the constitution or laws of the state, and each deputy or clerk of such officer, shall take an oath of office before entering upon the discharge of his duties. The failure to take such oath shall not affect his liability or the liability of his sureties. (Revised Statutes of 1880.)

SECTION 7. An office is vacant if the person does not qualify. A person elected or appointed to an office who is required by law to give a bond or security previous to the performance of the duties imposed on him by his office, who refuses or neglects to give such bond or furnish such security, within the time and in the manner prescribed by law, and in all respects to qualify himself for the performance of such duties, shall be deemed to have refused to accept the office to which he was elected or appointed, and such office shall be considered vacant and be filled as provided by law. (R. S. Sec. 19.)

SECTION 8. Officers to hold till successors qualified. A person holding an office of public trust shall continue therein until his successor is elected or appointed and qualified, unless otherwise provided in the constitution or laws. (Revised Statutes of 1880.)

SECTION 12. Vacancy in appointive state office, how filled. When a vacancy in an office filled by appointment of the governor, with the advice and consent of the senate, occurs by expiration of term or otherwise during a session of the senate, the governor shall appoint a person to fill such vacancy and forthwith report such appointment to the senate. If such vacancy occurs when the senate is not in session, and no appointment has been made and confirmed in anticipation of such vacancy, the governor shall fill the vacancy and report the appointment to the next session of the senate, and, if the senate advise and consent thereto, such appointee shall hold office for the full term, otherwise a new appointment shall be made. (77 v. 18.)

SECTION 13. Governor may remove appointee. When not otherwise provided by law, an officer who holds his office by appointment of the governor with the advice and consent of the senate, may be removed from office by the governor with the advice and consent of the senate, if it be found that such officer is inefficient or derelict in the discharge of his duties or that he has used his office corruptly. If, in the recess of

the senate, the governor be satisfied that such officer is inefficient or derelict or corrupt, he may suspend such officer from his office and report the facts to the senate at its next session. If in such report the senate so advise and consent, such officer shall be removed, but otherwise he shall be restored to his office. (80 v. 85.)

SECTION 14. Vacancy in case of removal by governor. In case of such suspension of an officer, the governor shall designate a person to perform the duties of the office during the period of such suspension. The person so designated shall give bond and take the oath of office, and during the time he performs the duties of the office he shall receive the full emoluments thereof, no part of which shall, for such time, go to such suspended officer. If the suspended officer be removed or his term expires before the action of the senate, a new appointment shall be made. (80 v. 85.)

SECTION 17. Debts not to be contracted without authority. An officer or agent of the state or of any county, township or municipal corporation, who is charged or intrusted with the construction, improvement or keeping in repair of a building or work of any kind, or with the management or providing for a public institution, shall make no contract binding or purporting to bind the state, or such county, township or municipal corporation, to pay any sum of money not previously appropriated for the purpose for which such contract is made, and remaining unexpended and applicable thereto, unless such officer or agent has been duly authorized to make such contract. If such officer or agent makes or participates in making a contract without such appropriation or authority, he shall be personally liable thereon, and the state, county, township or municipal corporation in whose name or behalf the contract was made, shall not be liable thereon. (54 v. 77, pp. 1, 2.)

SECTION 17-1. Number of hours constituting a day's work; week's work. Except in case of extraordinary emergency, not to exceed eight hours shall constitute a day's work and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the state, or any political subdivision thereof, whether done by contract or otherwise; and it shall be unlawful for any person, corporation or association, whose duty it shall be to employ or to direct and control the services of such workmen, to require or permit any of them to labor more than eight hours in any calendar day or more than forty-eight hours in any week, except in cases of extraordinary emergency. This section shall be construed not to include policemen or firemen. (108 v. Pt. II, 1286.)

SECTION 18. Gifts, devises and bequests to public authorities. The state, a county, township or cemetery association, the commissioners or trustees thereof, a municipal corporation, the council, a board or other officers thereof, a benevolent, educational, penal or reformatory institution, wholly or in part under the control of the state, the board of directors, trustees or other officers thereof, may receive by gift, devise or bequest, moneys, lands or other properties, for their benefit or the benefit of any of those under their charge, and hold and apply the same according to the terms and conditions of the gift, devise or bequest. This sec-

tion shall not affect the statutory provisions as to devises or bequests for such purposes. (78 v. 109.)

SECTION 20. Report of claims in favor of the state to auditor. When an officer or agent of the state comes into possession of a claim due and payable to the state, he shall demand payment thereof, and on payment have the amount duly certified into the state treasury. If he fails to collect such claim within thirty days after it comes into his possession, he shall certify it to the auditor of state, specifying the transaction out of which it arose, the amount due, the date of maturity, and the time when payment was demanded. The auditor of state shall not issue his warrant on the treasurer of state for the salary of any such officer or agent of the state until the provisions of this section are complied with. (107 v. 546.)

SECTION 21-1. Inventory of state property. That the officers in charge of all state departments, and the board of each state institution, shall cause a full and accurate inventory, in duplicate, to be taken at the close of each fiscal year, which shall specify all the various kinds of personal property and the value thereof, the number of acres of land, and the value thereof, the number and kind of buildings, and the value thereof. Said inventory to be made for the board of each state institution by the officer in charge thereof; which inventory shall be signed by such officer in charge of each state department, and by the officer making the same for the board of each state institution. Such inventory shall be certified as being correct by the officer in charge of each state department, and by the board of each state institution for which said inventory is made; one copy of which shall be made in a proper record book to be kept for that purpose in each state department and institution returning said inventory; the other shall be filed in the office of the auditor of state on or before the fifteenth day of December following. A summary of each inventory made shall be published in the report of the institution of that year and a sufficient number of copies furnished the secretary of state in the following December for each member of the general assembly; and not less than fifty copies for the governor of the state. Provided, further, that each officer in charge of all state departments, and the board of each state institution shall file with the auditor of state in the month of September nineteen hundred and eleven a complete inventory as herein described. (102 v. 275.)

SECTION 23. Street, etc., over lands of public institutions. A street, alley or road shall not be laid out or established through or over the lands belonging to a public institution of the state without the special permission of the general assembly. (49 v. 119.)

SECTION 23-1. Sales and leases of state lands shall reserve all oil, gas, coal and other minerals: exception. All sales and leases of public or other state lands, except canal lands other than reservoirs and lands appurtenant and adjacent to reservoirs, shall exclude all oil, gas, coal or other minerals on or under such lands, except lands specifically leased for such purposes separate and apart from surface leases, and all deeds for such lands executed and delivered by the state shall expressly reserve to the state all gas, oil, coal or other minerals on or under such lands

with the right of entry in and upon said premises for the purpose of selling or leasing the same, or prosecuting, developing or operating the same and this provision shall affect and apply to pending actions. (106 v. 245.)

SECTION 24. Fees and moneys to be paid into state treasury, weekly. On or before Monday of each week every state officer, state institution, department, board, commission, college, normal school or university receiving state aid shall pay to the treasurer of state all moneys, checks and drafts received for the state, or for the use of any such state officer, state institution, department, board, commission, college, normal school or university receiving state aid, during the preceding week, from taxes, assessments, licenses, premiums, fees, penalties, fines, costs, sales, rentals, or otherwise and file with the auditor of state a detailed, verified statement of such receipts. Where tuitions and fees are paid to the officer or officers of any college, normal school or university receiving state aid, said officer or officers shall retain a sufficient amount of said tuition fund and fees to enable said officer or officers to make refunds of tuition and fees incident to conducting of said tuition fund and fees. At the end of each term of any college, normal school or university receiving state aid the officer or officers having in charge said tuition fund and fees shall make and file with the auditor of state an itemized statement of all tuitions and fees received and disposition of the same. (104 v. 178.)

OHIO BOARD OF CLEMENCY

SECTION 86. Appointment of members. There is hereby created the Ohio board of clemency to be composed of two members to be appointed by the director of public welfare with the approval of the governor within thirty days after this act goes into effect. So far as may be, both members shall be selected with regard to ability, character and personal fitness for the duties devolving upon them under the provisions of this act. The members shall be selected from different appellate judicial districts of the state and shall be of different political affiliation. One member of the board shall be an attorney-at-law and duly admitted to practice in the courts of the state. One member shall be appointed for the term of two years and one for four years, and thereafter each member shall be appointed for a term of four years. **Whenever a vacancy occurs** in the board the director of public welfare, with the approval of the governor shall appoint a new member of the same political party as his predecessor, for the new term or the unexpired term as the case may be. Each member of the board shall live in Columbus while holding this office and shall give his entire time to his official duties. (110 v. 327.)

SECTION 87. Oath of office, bond and salary. Prior to the assumption of his duties hereunder, each member shall take the constitutional oath of office and furnish bond to the state in the sum of five thousand dollars for the faithful discharge of the duties imposed upon him by law. The bond, when approved by the director of public welfare, with the approval of the governor, shall be filed with the secretary of state, and if executed by a surety company the premium therefor paid out of

funds appropriated for the expenses of the Ohio board of clemency. Each member shall receive a salary of four thousand five hundred dollars per year, payable semi-monthly on vouchers drawn by the secretary and approved by the board. Each member shall be entitled to receive his actual traveling expenses incurred on official business. Such expenses shall be audited and paid in the same manner as the expenses of other state officers are audited and paid. (110 v. 327.)

SECTION 88. Removal of member. After opportunity to be heard, the director of public welfare, with the approval of the governor, may remove any member of the Ohio board of clemency for conduct unbecoming an officer of the state, whether criminal or otherwise. (110 v. 322.)

SECTION 89. Appointment of secretary. The Ohio board of clemency may appoint a secretary whose duties shall be prescribed and compensation fixed by the board. Such compensation shall be paid in the same manner as the compensation of other state employes. In the event of disagreement between the members of the board, the secretary shall be appointed by and his salary fixed by the director of public welfare with the approval of the governor. (110 v. 327.)

SECTION 90. Office quarters provided. Suitable office quarters shall be provided for the Ohio board of clemency in the administration building of the Ohio penitentiary, and such board shall be provided with necessary office furniture and supplies for the performance of duties imposed upon it by law. It shall also employ necessary assistants, clerks and stenographers to assist in the performance of the duties imposed upon it by law, and, subject to the approval of the director of public welfare, with the approval of the governor, fix the salaries or compensation of such employes. Upon vouchers approved by the board such salaries or compensation shall be paid semi-monthly by the treasurer of state upon the warrant of the auditor of state. (110 v. 328.)

SECTION 91. Powers and duties. The Ohio board of clemency shall have all the powers and enter upon the performance of all the duties conferred by law upon the board of pardons. (107 v. 599.)

SECTION 92. Board supersedes Ohio board of administration in release, parole and probation. Upon the appointment of the members of the Ohio board of clemency as hereinbefore provided, and their qualification, such board shall supersede and perform all of the duties now conferred by law upon the Ohio board of administration with relation to the release, parole, and probation of persons confined in or under sentence to the penal or reformatory institutions of Ohio; and thereafter the said Ohio board of clemency, shall be vested with and assume and exercise all powers and duties in all matters connected with the release, parole or probation of persons confined in or under sentence to the penal institutions of Ohio now cast by law upon the said Ohio board of administration. The parole officers of the several penal institutions of the state shall be appointed by and subject to the direction and supervision of the managing officers of the institutions herein named. (107 v. 600.)

SECTION 92-1. Meetings of board. Except during the month of August, the Ohio board of clemency shall meet once each month at each

of the penal institutions of the state for the consideration of applications for clemency. (107 v. 600.)

SECTION 92-2. Consideration of applications; recommendations to governor. All applications for clemency shall be made to the Ohio board of clemency and shall be given careful consideration by such board; and written arguments for and against such applications may be heard at any regular meeting of the board, subject to such rules and limitations as the board may prescribe. When a pardon or commutation is recommended to the governor by the board it shall be in writing, with reasons therefor fully and plainly set out; no such recommendations shall be made except upon concurrence of both members of the board. No parole granted by the board shall go into effect until the expiration of fifteen days from the making thereof and shall be subject to revocation at the discretion of the board; this requirement may be disregarded only on a physician's certificate of imminent danger of death or severe illness, or upon the order of the governor. (107 v. 600.)

SECTION 92-3. Form of application; liberal construction. There shall be but one form of application to the Ohio board of clemency which shall be a general application for clemency, and shall be liberally construed in the interest of substantial justice, and acted upon as an application for the relief which the board in its discretion deems proper. The board shall provide all necessary forms and blanks for application for clemency. (107 v. 600.)

(For "*State board of pardon*," read "*Ohio board of clemency*.")

SECTION 93. Governor may ignore recommendation of board. Notwithstanding the action of the state board of pardons, the governor may grant or reject an application for a pardon, commutation of sentence, or reprieve, if in his judgment the public interests would be promoted thereby. (85 v. 190.)

SECTION 94. Application for pardon or commutation. Application for the pardon of any person convicted of an offense, and sentenced to punishment, or for the commutation of such sentence, shall be made in the manner and under the restrictions hereinafter prescribed. (66 v. 287.)

SECTION 95. Notice of application to prosecuting attorney. Notice of the application for a pardon or commutation shall be given by or on behalf of the applicant to the prosecuting attorney of the county in which the indictment was found against him, at least three weeks before such application is considered by the board of pardons or the governor. A copy of the notice, acknowledged by the prosecuting attorney, or certified under oath of a creditable witness to be a true copy thereof, shall accompany each application to the board of pardons, and be transmitted by it with its recommendation to the governor. (85 v. 188, 191.)

SECTION 96. Notice of application to be published. A notice of such application, setting forth the name of the person on whose behalf it is made, the crime of which he was convicted, the time of conviction and term of sentence, shall be published in a newspaper printed and of general circulation in such county, at least three weeks before the board of pardons or the governor shall consider the application; but, in case the application is for the pardon or commutation of sentence of a person

sentenced to capital punishment, the governor may modify the requirements of such publication if there is not time sufficient for compliance therewith before the date fixed for the execution of sentence. (85 v. 188.)

SECTION 97. Duty of prosecuting attorney. After the service of the notice upon the prosecuting attorney of the proper county, he shall make and forward forthwith to the board of pardons and the Ohio Board of Administration, at Columbus, a statement of the time of trial and conviction, and the date and term of sentence of the person in whose behalf the application for parole, pardon or commutation is made, with a brief statement of any circumstances in aggravation or extenuation appearing in the testimony in such trial.

The board of pardons shall transmit such statement with its recommendations to the governor. (103 v. 490.) See G. C. Sec. 90, et seq.*

SECTION 98. Pardon of convict when death is imminent. The governor may dispense with any or all of the foregoing provisions governing the granting of pardons if it is made to appear that there is imminent danger of the death of a person imprisoned in the penitentiary, by certificate of the physician thereof or otherwise, and the warden recommends the pardon of such convict, or if the warden and directors recommend the pardon of a convict and make a statement of their reasons therefor. (66 v. 287.)

SECTION 99. Pardon or commutation of sentence may be on conditions. A pardon or commutation of sentence may be granted upon such conditions as the governor may impose, which shall be stated in the warrant; but such pardon or commutation shall not take effect until the conditions so imposed are accepted by the convict and his acceptance indorsed upon the warrant, signed by him, and attested by one witness. In case of commutation of sentence, such witness shall go before the clerk of the court in whose office the sentence is recorded and prove the signature of the convict. The clerk shall thereupon record the warrant, indorsement, and proof in the journal of the court, which record, or a certified transcript thereof, shall be evidence of such commutation, the conditions thereof and the acceptance of the conditions. (79 v. 122.)

SECTION 100. Copy of record received as evidence. Warrants of pardons shall be issued in duplicate, one copy given to the convict, and one filed in the office of the clerk of the penitentiary. Conditional pardons shall also be recorded by the clerk of the penitentiary in a book provided for that purpose, which record shall embrace the endorsements thereon. A transcript of a recorded case, certified by the warden and attested by the clerk of the penitentiary, or a copy of a filed warrant and the endorsement thereon, so certified and attested shall be received as evidence of the facts stated therein. (79 v. 122.)

SECTION 101. Violations of conditions of pardon. A violation of the conditions of a pardon shall constitute a forfeiture of the pardon and render the person pardoned liable to recommitment to the penitentiary to serve the remainder of his sentence as though he had not been pardoned. Upon written request of the governor, the prosecuting attorney of the county in which the violation occurred shall file an information thereof

(*Under amended law, such statement should be sent to Ohio Board of Clemency.)

in the office of the probate judge of the county, who shall thereupon issue a warrant to the sheriff commanding him to pursue and arrest the person named in the information, wherever he may be found within the state, and bring him into court for examination upon the charge. (79 v. 122.)

SECTION 102. Recommitment of convict. The prosecuting attorney shall also demand and receive from the warden of the penitentiary the evidence required in cases of conditional pardon, and, upon such examination, if the charge set forth in the information is sustained, the probate judge shall issue a warrant to the sheriff, commanding him to deliver the convict into the custody of the warden of the penitentiary to serve the remainder of his sentence. Before a convict who has received a conditional pardon leaves the penitentiary, the warden shall furnish him a copy of this and the preceding sections relating to conditional pardons and explain the provisions thereof. (79 v. 122.)

SECTION 103. Costs of arrest and examination of convict. The probate judge shall prepare and approve under his official seal a bill of the costs of the arrest and examination of a convict, which the sheriff shall deliver to the warden of the penitentiary. The warden shall allow so much thereof as he finds in accordance with law and certify such amount to the auditor of state, who shall draw his warrant in favor of the sheriff upon the treasurer of state for its payment from the appropriation for the prosecution and transportation of convicts. (79 v. 122.)

SECTION 104. Proceedings when conditional pardon requires confinement in penitentiary. When one of the conditions of a pardon or commutation specified in the warrant requires the person in whose favor it is granted to be confined in the penitentiary for life or a definite time, the sheriff, or other officer having the person in custody, shall convey him to the penitentiary in the manner in which convicts are required by law to be conveyed. The warden shall receive such person and warrant and proceed with him as the warrant directs. The expenses of his transportation shall be allowed and paid as in other cases. (66 v. 287.)

SECTION 105. Proceedings when convict becomes insane. If a representation is made to the board of pardons that a convict is insane or pregnant, the board shall make careful inquiry, and, if the facts so require, recommend to the governor the exercise of executive clemency. The governor may without notice pardon such convict, commute the sentence, or suspend its execution for a definite period or from time to time, as he deems proper. The governor, in case of commutation or suspension, may, by his warrant to the proper officer, order the convict to be confined in the penitentiary, or jail, or conveyed to an asylum for the insane or hospital for treatment. When the purpose has been accomplished for which any sentence has been suspended, the remaining sentence shall thereupon be executed. (85 v. 188, 191.) See G. C., Sec. 91, et seq.

SECTION 106. Reprieves. The governor may grant a reprieve for a definite time to a person under sentence of death, without notice or application; but the board of pardons, having considered an application for a reprieve, may recommend to the governor that it be granted or rejected. (85 v. 188, 191.) See G. C., Sec. 91, et seq.

SECTION 107. Proceedings if reprieved is to be confined in penitentiary. When the governor directs in the warrant of reprieve that the prisoner be confined in the penitentiary for the time of the reprieve or any part thereof, the sheriff or other officer having the prisoner in custody shall convey him to the penitentiary in the manner provided by law for the conveyance of convicts, and the warden shall receive such prisoner and warrant and proceed as the warrant directs. At the expiration of the time specified in the warrant for the confinement of the prisoner in the penitentiary, the warden shall redeliver him to the sheriff or other officer to be dealt with according to the sentence as modified by such warrant of reprieve. (66 v. 287.)

SECTION 108. Warrant of reprieve to be recorded. On receiving the warrant of reprieve, the sheriff or other officer having custody of the person reprieved shall present it forthwith to the clerk of the court in which the sentence is recorded, who shall thereupon record the warrant in the journal of the court. (66 v. 287.)

ADMINISTRATIVE CODE

Reorganizing the Several Departments of State

(The full text of this code is printed, although much of it has no reference to the Department of Public Welfare.)

AN ACT

'To establish an administrative code for the state, to abolish certain offices, to create new administrative departments and redistribute among them existing administrative functions, and for such purposes enacting Chapter Ia of the Division I, Title III, Part First of the General Code, consisting of sections 154-1 to 154-58, inclusive, amending sections 243, 321, 496, 710-6, 840, 1170, 1171, 1172, 1173, 1178, 1233, 1261-2, 1807, 1857, 1931-1, 2248, 2250, 2288-1, 2312, 2313 and 7939 of the General Code, enacting supplemental sections 2249-1 and 7931-1 of the General Code, and repealing sections 86, 87, 88, 89, 90, 146, 147, 148, 149, 150, 151, 152, 153, 154, 196-1, 196-2, 196-3, 196-16, 196-18, 199, 242-1, 242-2, 270-1, 270-4, 270-5, 367-3, 367-4, 403-1, 406, 408, 409, 498, 615, 616, 618, 619, 620, 674, 675, 744-14, 744-15, 744-16, 744-17, 744-19, 744-20, 744-23, 746, 747, 752, 788, 789, 790, 791, 798-2, 798-4, 798-8, 799, 800, 801, 820, 821, 822, 823, 842, 844, 845, 848, 871-46, 871-47, 905, 982, 1079, 1079-1, 1080, 1081, 1083, 1084, 1087, 1087-2, 1088, 1089, 1089-1, 1099, 1123, 1171-2, 1171-3, 1177-22, 1177-23, 1177-24, 1177-25, 1179, 1180, 1183, 1232-1, 1233-1, 1236-2, 1261-1, 1440, 1465-8, 1465-43, 1808, 1809, 1833, 1834, 1836, 1837, 1841-7, 1861 and 5227 of the General Code and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Chapter Ia of Division I, Title III, Part First of the General Code, consisting of sections 154-1 to 154-58, inclusive, and entitled "ADMINISTRATIVE CODE", is hereby enacted, as follows:

SECTION 154-1. Powers of Governor. In order that the governor may exercise the supreme executive power of the state vested in him by the constitution and adequately perform his constitutional duty to see that the laws are faithfully executed, the administrative functions of the state are organized as provided in this chapter.

Powers of other officers. All powers vested in and duties imposed upon the lieutenant governor, the secretary of state, the auditor of state, the treasurer of state and the attorney general by the constitution and the laws shall continue except as otherwise provided by this chapter. (109 v. 105.)

SECTION 154-2. Definition of terms. As used in this chapter:

“Department” means the several departments of state administration enumerated in section 154-3 of the General Code.

“Division” means a part of a department established as provided in section 154-8 of the General Code, for the convenient performance of one or more of the functions committed to a department by this chapter.

The phrase “departments, offices and institutions” includes every organized body, office and agency established by the constitution and laws of the state for the exercise of any function of the state government, and every institution or organization which receives any support from the state. (109 v. 105.)

SECTION 154-3. Administrative departments created. The following administrative departments are created:

The department of finance, which shall be administered by the director of finance, hereby created;

The department of commerce, which shall be administered by the director of commerce, hereby created;

The department of highways and public works, which shall be administered by the superintendent of public works as director thereof;

The department of agriculture, which shall be administered by the director of agriculture, hereby created;

The department of health, which shall be administered by the director of health, hereby created;

The department of industrial relations, which shall be administered by the director of industrial relations, hereby created;

The department of education, which shall be administered by the superintendent of public instruction, as director thereof;

The department of public welfare, which shall be administered by the director of public welfare, hereby created.

The director of each department shall, subject to the provisions of this chapter, exercise the powers and perform the duties vested by law in such department. (109 v. 105.)

SECTION 154-4. Appointment of directors. Each director whose office is created by section 154-3 of the General Code shall be appointed by the governor by and with the advice and consent of the senate, and shall hold his office during the pleasure of the governor. (109 v. 106.)

SECTION 154-5. Assistant directors; vacancies. In each department there shall be an assistant director, who shall be designated by the director to fill one of the offices within such department, enumerated

in section 154-6 of the General Code, or as the head of one of the divisions created within such department as authorized by section 154-8 of the General Code. When a vacancy occurs in the office of director of any department, the assistant director thereof shall act as director of the department until such vacancy is filled. (109 v. 106.)

SECTION 154-6. Offices created in the several departments. Offices are created within the several departments as follows:

In the Department of Finance

Superintendent of budget

Superintendent of purchases and printing

In the Department of Commerce

Superintendent of building and loan associations

Fire marshal

Superintendent of insurance

In the Department of Highways and Public Works

State architect and engineer

State highway engineer

In the Department of Agriculture

Chiefs of divisions as follows:

Animal industry

Fish and game

Foods and dairies

Plant industry

State fair

In the Department of Industrial Relations

Chiefs of divisions as follows:

Factory inspection

Labor statistics

Mines

In the Department of Education

Chiefs of divisions as follows:

Examination and licensing

Film censorship

In the Department of Public Welfare

Fiscal supervisor

Superintendent of charities

Superintendent of pardon and parole.

(109 v. 106.)

(Board of pardon and parole succeeded by Ohio Board of Clemency. See Sec. 86 et seq.)

SECTION 154-7. Appointment of officers; term. The officers mentioned in sections 154-5 and 154-6 of the General Code shall be appointed by the director of the department in which their offices are respectively created, and shall hold office during the pleasure of such director. (109 v. 107.)

SECTION 154-8. Supervision and control of officers. The officers mentioned in sections 154-5 and 154-6 of the General Code shall be under the direction, supervision and control of the directors of their respective departments, and shall perform such duties as such directors shall prescribe.

Establishment of divisions. With the approval of the governor, the director of each department shall establish divisions within his department, and distribute the work of the department among such divisions. Each officer created by section 154-6 of the General Code shall be the head of such a division.

Consolidation or creation of new offices authorized. With the approval of the governor, the director of each department shall have authority to consolidate any two or more of the offices created in his department by section 154-6 of the General Code, or to reduce the number of or create new divisions therein.

Regulations may be prescribed. The director of each department may prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its employes, the performance of its business and the custody, use and preservation of the records, papers, books, documents and property pertaining thereto. (109 v. 107.)

SECTION 154-9. Director of commerce or superintendent of insurance shall not have certain official connections or business interests; other officers. Neither the director of commerce nor the superintendent of insurance shall have any official connection with an insurance company, own any stock therein, or be interested in the business thereof, except as a policyholder.

The director of commerce shall not be interested, directly or indirectly, in any firm or corporation which is a dealer in securities as defined in sections 6373-1 and 6373-2 of the General Code, or in any firm or corporation licensed under the provisions of section 6346-1 to 6346-10, inclusive, of the General Code.

Neither the director of commerce nor the superintendent of building and loan associations shall have any official connection with a building and loan associations, or be interested in the business thereof, except as a stockholder.

The director of commerce and his appointees or employes performing services in connection with the administration of the laws relating to public utilities shall be subject in all respects to the provisions of sections 499-3 and 499-4 of the General Code. (109 v. 107.)

SECTION 154-10. State highway engineer, qualifications. The state highway engineer shall be a competent civil engineer with at least five years' experience in the construction and maintenance of highways. (109 v. 108.)

SECTION 154-11. Director of agriculture and chief of division of animal industry, qualifications. The director of agriculture shall be a person actively identified with agriculture.

The chief of the division of animal industry in the department of agriculture shall be a graduate of a recognized college of veterinary medicine and licensed to practice veterinary medicine and surgery in this state. (109 v. 108.)

SECTION 154-12. Director of health, qualifications. The director of health shall be a physician skilled in sanitary science. (109 v. 108.)

SECTION 154-13. Chief of licensing department shall not be affiliated with certain schools. The chief of the division of examination and

licensing in the department of education shall not be affiliated with any college or school of medicine, (or any limited branch of medicine or surgery), or of pharmacy, dentistry, nursing, optometry or embalming, either as teacher, officer or stockholder. (109 v. 108.)

SECTION 154-14. Bond and oath of office; bond may be required of employe. Each officer whose office is created by sections 154-3, 154-5 and 154-6 of the General Code shall, before entering upon the duties of his office, take and subscribe an oath of office as provided by law and give bond, conditioned according to law, with security to be approved by the governor in such penal sum as shall be fixed by the governor, not less in any case than ten thousand dollars. Such bond and oath shall be filed in the office of the secretary of state.

The director of each department may, with the approval of the governor, require any chief of a division created under the authority of this chapter, or any officer or employe in his department, to give like bond in such amount as the governor may prescribe. The premium, if any, on any bond required or authorized by this section may be paid from the state treasury. (109 v. 108.)

SECTION 154-15. Advisory boards may be provided. The director of each department may, with the approval of the governor, establish and appoint advisory boards to aid in the conduct of the work of his department or any division or divisions thereof. Such advisory boards shall exercise no administrative function, and their members shall receive no compensation, but may receive their actual and necessary expenses. (109 v. 108.)

SECTION 154-16. Officers shall devote entire time and hold no other office. Each officer whose office is created by sections 154-3, 154-5 and 154-6 of the General Code shall devote his entire time to the duties of his office, and shall hold no other office or position of profit. In addition to his salary provided by law, each such officer and each member of the boards and commissions in the departments created by this chapter shall be entitled to his actual and necessary expenses incurred in the performance of his official duties. (109 v. 109.)

SECTION 154-17. Central office shall be in Columbus. Each department shall maintain a central office in the city of Columbus. The director of each department may, in his discretion and with the approval of the governor, establish and maintain, at places other than the seat of government, branch offices for the conduct of any one or more functions of his department. (109 v. 109.)

SECTION 154-18. Seal for each department; specifications. Each department shall adopt and keep an official seal, which shall have engraved thereon the coat of arms of the state as described in section thirty of the General Code, shall be one and three-fourths inches in diameter, and shall be surrounded by the proper name of the department, to which may be added the title of any division, board or commission within the department, if the director of the department shall so prescribe. Such seal may be affixed to any writs and authentications of copies of records and official papers, and to such other instruments as may be authorized by law or prescribed by the proper authority in any

department to be executed. When so authenticated, any copy of such record, official paper, or other instrument shall be received in evidence in any court in lieu of the original.

Journals and records. Each department shall provide for the keeping, within such department, of such records and journals as may be necessary to exhibit its official actions and proceedings. (109 v. 109.)

SECTION 154-19. Employment subject to civil service laws. Each department is empowered to employ, subject to the civil service laws in force at the time the employment is made, the necessary employees, and, if the rate of compensation is not otherwise fixed by law, to fix their compensation. Nothing in this chapter shall be construed to amend, modify or repeal the civil service laws of the state, except as herein expressly provided.

All offices created by sections 154-5 and 154-6 of the General Code shall be in the unclassified civil service of the state. (109 v. 109.)

SECTION 154-20. Daily hours of service by employes. All employes in the several departments shall render not less than eight hours of labor each day Saturday afternoons, Sundays and days declared by law to be holidays excepted in cases in which, in the judgment of the director, the public service will not thereby be impaired.

Two weeks absence, on pay, each year. Each employe in the several departments shall be entitled during each calendar year, to fourteen days leave of absence with full pay. In special and meritorious cases where to limit the annual leave to fourteen days in any one calendar year would work peculiar hardship, it may, in the discretion of the director of the department, be extended. No employe in the several departments, employed at a fixed compensation, shall be paid for any extra services, unless expressly authorized by law. (109 v. 109.)

SECTION 154-21. Cooperation and coordination of work under direction of governor. Under the direction of the governor, the directors of departments shall devise a practical and working basis for cooperation and coordination of work and for the elimination of duplication and overlapping functions. They shall, so far as practicable, cooperate with each other in the employment of services and the use of quarters and equipment. The director of any department may empower or require an employe of another department, subject to the consent of the superior officer of the employe, to perform any duty which he might require of his own subordinates. (109 v. 110.)

SECTION 154-22. Report by each department. Each department shall make and file a report of its transactions and proceedings at the time and in the manner prescribed by section 2264-1 of the General Code. (109 v. 110.)

SECTION 154-23. Power to inspect, examine, etc. Whenever power is vested in any of the departments created by this chapter, or in any other state department, board or commission, to inspect, examine, secure data or information, or to procure assistance from another department, office or institution, a duty is hereby imposed upon the department, office or institution, upon which demand is made, whether created by this chapter or otherwise, to make such power effective. (109 v. 110.)

SECTION 154-24. Rights, powers and duties heretofore vested or exercised by board, officer, commission, etc., transferred; Rights, powers, duties, etc., of persons, firms, corporations, etc. Whenever rights, powers or duties which have heretofore been vested in or exercised by any officer, board, commission, institution or department, or any deputy, inspector or subordinate officer thereof, are, by this chapter, transferred, either in whole or in part, to or vested in a department created by this chapter, or any other department, office or institution, such rights, powers and duties shall be vested in, and shall be exercised by the department, office or institution to which the same are hereby transferred, and not otherwise; and every act done in the exercise of such rights, powers and duties shall have the same legal effect as if done by the former officer, board, commission, institution or department, or any deputy, inspector, or subordinate officer thereof. Every person, firm and corporation shall be subject to the same obligations and duties and shall have the same rights arising from the exercise of such rights, powers and duties as if such rights, powers and duties were exercised by the officer, board, commission, department or institution, or deputy, inspector or subordinate thereof, designated in the respective laws which are to be administered by departments created by this chapter. Every person, firm and corporation shall be subject to the same penalty or penalties, civil or criminal, for failure to perform any such obligation or duty, or for doing a prohibited act, as if such obligation or duty arose from, or such act were prohibited in, the exercise of such right, power or duty by the officer, board, commission or institution, or deputy, inspector or subordinate thereof, designated in the respective laws which are to be administered by departments created by this chapter. Every officer and employe shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer or employe whose powers or duties devolve upon him under this chapter. (109 v. 110.)

SECTION 154-25. Service of notice and making reports. Wherever reports or notices are now required to be made or given, or papers or documents furnished or served by any person to or upon any officer, board, commission or institution, or deputy, inspector or subordinate thereof, abolished by this chapter, the same shall be made, given, furnished or served in the same manner to or upon the department, office or institution upon which are devolved by this chapter the rights, powers and duties now exercised or discharged by such officer, board, commission or institution, or deputy, inspector or subordinate thereof; and every penalty for failure so to do shall continue in effect. (109 v. 111.)

SECTION 154-26. Offices, boards, commissions, etc., abolished. The following offices, boards, commissions, arms and agencies of the state government heretofore created by law are hereby abolished:

- The Ohio board of clemency,
- The state purchasing agent,
- The state registrar of vital statistics,
- The officer commonly known as the "Budget Commissioner,"
- The state board of education,
- The secretary of the public utilities commission of Ohio,

The superintendent of insurance,
 The inspector of building and loan associations,
 The superintendent of banks,
 The commissioner of securities,
 The commissioners of public printing,
 The supervisor of public printing,
 The state board of library commissioners,
 The librarian appointed by the state board of library commissioners,
 The library organizer appointed by the state board of library commissioners,
 The director of the legislative reference department,
 The state geologist,
 The state fire marshal,
 The state inspector of oils,
 The board of censors of motion picture films under the authority and supervision of the industrial commission of Ohio,
 The board of agriculture of Ohio,
 The secretary of agriculture,
 The head of the bureau of markets and marketing under the board of agriculture of Ohio,
 The chief of the bureau of horticulture under the board of agriculture of Ohio,
 The inspector of canneries under the board of agriculture of Ohio,
 The board of control of the Ohio agricultural experiment station,
 The agricultural advisory board,
 The state highway commissioner,
 The chief highway engineer,
 The commissioner of health,
 The state inspector of plumbing,
 The board of state charities,
 The secretary of the board of state charities,
 The secretary of the tax commission of Ohio,
 The Ohio board of administration,
 The fiscal supervisor-secretary of the Ohio board of administration,
 The state building commission. (109 v. 111.)

SECTION 154-27. **Department of soldiers' claims transferred.** The department of soldiers' claims is hereby transferred to and placed under the supervision of the adjutant general. (109 v. 112.)

DEPARTMENT OF FINANCE

SECTION 154-28. **Department of finance, control and powers specified.** The department of finance shall have power to exercise control over the financial transactions of all departments, offices and institutions, excepting the judicial and legislative departments, as follows:

(1) By prescribing and requiring the installation of a uniform system of accounting and reporting, as to accruals of revenue and expenditures necessary in certifying that funds are available and adequate to meet contracts and obligations.

(2) By prescribing and requiring uniform order and invoice forms and forms for financial reports and statements, and by requiring financial reports and statements.

(3) By requiring itemized statements of expenditures proposed for any specified future period to be submitted to the department, and by approving or disapproving all or any part of such proposed expenditures.

(4) By requiring orders, invoices, claims, vouchers or payrolls to be submitted to the department, where such submission is prescribed by law or where the governor shall deem such submission necessary, and by approving or disapproving such orders, invoices, claims, vouchers or payrolls.

(5) By supervising and examining accounts, the expenditures and receipts of public money and the disposition and use of public property, in connection with the administration of the state budget.

(6) By prescribing the manner of certifying that funds are available and adequate to meet contracts and obligations.

(7) By prescribing uniform rules governing forms of specifications, advertisements for proposals, opening of bids, making of awards and contracts, governing purchases of supplies and performance of work.

(8) By reporting to the attorney general for such action, civil or criminal, as the attorney general may deem necessary all facts showing illegal expenditures of the public money or misappropriation of public property.

(9) By prescribing rules and regulations for carrying into effect any or all of the other powers herein granted.

No provision of law authorizing or requiring any department, office or institution to keep accrual, encumbrance or cost accounts or to exercise fiscal management and control over or with respect to any institution, activity or function of the state shall be so construed as to exclude such department, office or institution from the control of the department of finance herein specified, but the power of the department of finance herein provided for shall apply and relate to such accounts and reports of all such departments, offices and institutions.

SECTION 154-29. Definition of terms. As used in section 154-28 of the General Code:

“Order” means a copy of a contract or a statement of the nature of a contemplated expenditure, a description of the property or commodity to be purchased or service to be performed, other than services of officers and regular employes of the state, and per diem of the national guard, and the total sum of the expenditure to be made therefor if the same is fixed and ascertained, otherwise the estimated sum thereof.

“Invoice” means and includes estimates on contracts, or a statement showing delivery of the commodity or performance of the service described in the order, and the date of the purchase or rendering of the service, or a detailed statement of the things done, material supplied or labor furnished, and the sum due pursuant to the contract or obligation.

“Voucher” means the order and invoice as herein defined; and wherever in the General Code the word “voucher” is used it shall be held to have the meaning herein defined.

"Public money" shall have the meaning defined in section two hundred and eighty-six of the General Code.

All orders and invoices shall specify the appropriation account from which they are payable.

SECTION 154-30. Requirements of the department of finance must be complied with before issue of warrant. If any requirement of the department of finance respecting the submission of statements of proposed expenditures, or orders, invoices, claims, vouchers or payrolls is not complied with, or if any statement of proposed expenditure, or any order, invoice, claim, voucher or payroll is submitted to and disapproved in whole or in part by the department of finance, the department shall have authority to notify the auditor of state thereof, and such auditor shall not issue warrants on the treasury in payment of such expenditure, claim or voucher.

Order approved and charged against proper appropriation account, such account not available for payment of other invoices until final invoice filed. The department of finance may certify to the auditor of state any order or statement of proposed expenditures approved by it, and direct the proper appropriation account or accounts to be charged therewith, or with the estimated amount thereof, in which event the sum so certified shall be a prior charge on such appropriation account or accounts, available only for the payment of invoices issued against such order, or expenditures within such statement, until the final invoice therefor is filed with the auditor of state, or until the department of finance shall certify that such order and the obligation recited therein have ceased to be an obligation against the state, or such proposed expenditures have been made or abandoned in whole or in part.

Whenever any commodity or service included in any such order or statement so certified is delivered or performed, or whenever any payment is due upon any contract or obligation covered thereby, an invoice shall be filed with the auditor of state therefor. The total of all invoices issued against any such order shall not exceed the sum of such order or the estimated sum appearing on such order. (109 v. 114.)

SECTION 154-31. Further powers and duties. The department of finance shall:

(1) Prepare and report to the governor, when requested, estimates of the income and revenues of the state, and devise new forms of revenue for the state;

(2) Prepare and submit to the governor biennially, not later than the first day of January preceding the convening of the general assembly, state budget estimates;

(3) Publish, from time to time, for the information of the several departments and of the general public, bulletins of the work of the department.

(4) Investigate duplication of work of the departments and the efficiency of the organization and administration of departments, and formulate plans for the further coordination of departments. (109 v. 114.)

SECTION 154-32. Powers to take testimony and produce evidence.

In the exercise of any of the powers mentioned in section 154-28 of the General Code, the department of finance shall have power to compel the attendance and testimony of witnesses, to administer oaths and to examine such persons as it may deem necessary, and compel the production of books and papers. The orders and subpoenas issued by the department in pursuance of the authority in it vested by this section may be enforced, on the application of the director of finance, by any court of common pleas by proceedings in contempt therein as provided by law.

SECTION 154-33. Budget estimates by departments, officers, etc., when and how made. In the preparation of state budget estimates the director of finance shall, not later than the fifteenth day of September in the year preceding the regular session of the general assembly, distribute to all departments, offices and institutions of the state government, the blanks necessary for the preparation of budget estimates, which shall be in such form as shall be prescribed by the director of finance, to procure, among other things, information as to the revenues and expenditures for the two preceding fiscal years, and appropriations made by the previous general assembly, the expenditures therefrom, encumbrances thereon, and the amounts unencumbered and unexpended; an estimate of the revenues and expenditures of the current fiscal year, and an estimate of the revenues and amounts needed for the respective departments, offices and institutions for the two succeeding fiscal years for which appropriations have to be made. Each department, office and institution shall, not later than the first day of November, file in the office of the director of finance its estimate of receipts and expenditures for the succeeding biennium. Such estimate shall be accompanied by a statement in writing giving facts and explanation of reasons for each item of expenditure requested. The director of finance may, in his discretion, make further inquiry and investigation as to any item desired. He may approve, disapprove or alter the estimates, excepting those for the legislative and judicial departments of the state government. Such estimates as revised by him shall constitute the state budget estimates which the department of finance is required by this chapter to submit to the governor. (109 v. 114.)

SECTION 154-34. Governor shall submit to General Assembly proposed state budget. The governor shall, as soon as possible and not later than four weeks after the organization of the general assembly, submit a proposed state budget in the form of an appropriation bill or bills and a statement showing the amounts recommended by him to be appropriated to the respective departments, offices and institutions and for all other public purposes, the estimated revenues from taxation, the estimated revenues from sources other than taxation, and an estimate of the amount required to be raised by taxation. (109 v. 115.)

SECTION 154-35. Estimate required by each department, office, etc., before appropriation available. Each department, office and institution of the state government, other than the legislative and judicial departments thereof, shall, before any appropriation to such department becomes available for expenditure, prepare and submit to the department

of finance an estimate of the amount required for each specific purpose within the appropriation, or items of appropriation, as made by the general assembly, and accounts shall be kept and reports rendered to the department of finance showing the expenditure for each such purpose. The department of finance shall exercise such control over items of appropriation accounts created by the general assembly, with respect to changes and adjustments therein within the general scope of a specific appropriation, as may be committed to it by any act making appropriations, and shall in general exercise such control over the expenditure of appropriations, in addition to that specifically provided for in this chapter, as may be so committed to it. (109 v. 115.)

SECTION 154-36. Department of finance shall discharge duties imposed upon sundry claims board. The papers, statements and copies thereof required by section 270-6 of the General Code to be filed in the office of the president of the "Sundry Claims Board" therein provided for shall be hereafter delivered to and filed in the office of the department of finance, and such department shall discharge all the duties provided for in said section of the General Code with respect to the filing, delivery and preservation of such papers, statements and copies thereof. The director of finance shall include all claims allowed by the "Sundry Claims Board" in the state budget estimates. (109 v. 116.)

SECTION 154-37. Certain powers and duties of secretary and auditor of state transferred; State purchasing agent, duties of, transferred; Ohio Board of Administration, certain powers and duties of, transferred; purchases from welfare department. The department of finance shall succeed to and exercise all powers and perform all duties vested by sections one thousand eight hundred and forty-six and one thousand eight hundred and forty-seven of the General Code jointly in the secretary of state and the auditor of state, which said powers are hereby transferred to and vested in said department.

The department of finance shall succeed to and exercise all powers of the state purchasing agent in the office of the secretary of state, and the secretary of state and auditor of state with respect to the purchase of supplies and equipment required for the use and maintenance of state officers, boards and commissions, the commissioners of public printing and the supervisor of public printing, and shall exercise all powers and perform all duties as to purchases heretofore vested in the Ohio board of administration under the provisions of section one thousand eight hundred and forty-nine of the General Code. Wherever powers are conferred or duties imposed upon any of such departments, offices or officers with respect to the matters and things herein mentioned, such powers and duties shall be construed as vested in the department of finance. In addition to the powers so transferred to it, the department of finance shall have power to purchase all other supplies, material and equipment for the use of the state departments, offices and institutions, excepting the military department and institutions administered by boards of trustees, and, excepting as to such department and institutions, to make contracts for and superintend the telephone and telegraph service for the state departments, offices and institutions. So far as practicable, the department of finance shall make all purchases under authority of this

chapter from the department of public welfare in the exercise of the functions of said department in the management of state institutions. (109 v. 116.)

SECTION 154-38. Tax commission a part of department of finance in certain respects. The tax commission of Ohio shall be a part of the department of finance for administrative purposes, in the following respects: The director of finance shall be ex officio the secretary of said commission, shall succeed to and perform all of the duties of the secretary of said commission, and shall exercise all powers of said secretary as provided by law; but such director may designate any employe of the department as acting secretary to perform the duties and exercise the powers of secretary of the commission. All clerical and other agencies for the execution of the powers and duties vested in said tax commission of Ohio shall be deemed to be in the department of finance, and the employes thereof shall be deemed to be employes in said department and shall have and exercise all authority vested by law in the employes of such commission. But the tax commission of Ohio shall have direct supervision and control over, and power of appointment and removal of, such employes whose positions shall be designated by the governor as fully subject to the authority of such commission. (109 v. 116.)

DEPARTMENT OF COMMERCE

SECTION 154-39. Department of commerce, powers and duties; Division of banks; Public utilities commission a part of the department of commerce for administrative purposes. The department of commerce shall have all powers and perform all duties vested in the inspector of building and loan associations, the state fire marshal, the superintendent of insurance, the state inspector of oils, and the commissioner of securities; and said department shall have all powers and perform all duties vested by law in any and all officers, deputies and employees of such offices and departments. Wherever powers are conferred or duties imposed upon any of such departments, offices or officers, such powers and duties shall be construed as vested in the department of commerce.

There is hereby created in the department of commerce a division of banks which shall have all powers and perform all duties vested by law in the superintendent of banks. Wherever powers are conferred or duties imposed upon the superintendent of banks, such powers and duties shall be construed as vested in the division of banks. The division of banks shall be administered by a superintendent of banks, who shall be appointed by the governor by and with the advice and consent of the senate, and hold his office for a term of two years, unless sooner removed at the will of the governor. A vacancy in the office of superintendent of banks shall be filled by appointment for the unexpired term. All provisions of law governing the superintendent of banks shall apply to and govern the superintendent of banks herein provided for; all authority vested by law in the superintendent of banks with respect to the management of the department of banks heretofore existing shall be construed as vested in the superintendent of banks hereby created with respect to the division of banks herein provided for; and all rights privileges and

emoluments conferred by law upon the superintendent of banks shall be construed as conferred upon the superintendent of banks as head of the division of banks herein provided for. The director of commerce shall not impose upon the division of banks any functions other than those specified in this paragraph, nor transfer from such division any of such functions.

The public utilities commission of Ohio shall be a part of the department of commerce for administrative purposes, in the following respects: The director of commerce shall be ex officio the secretary of said commission, shall succeed to and perform all of the duties of the secretary of said commission, and shall exercise all powers of said secretary as provided by law; but such director may designate any employe of the department as acting secretary to perform the duties and exercise the powers of secretary of the commission. All clerical, inspection and other agencies for the execution of the powers and duties vested in the said public utilities commission shall be deemed to be in the department of commerce, and the employes thereof shall be deemed to be employes of said department and shall have and exercise all authority vested by law in the employes of such commission. But the public utilities commission shall have direct supervision and control over, and power of appointment and removal of, such employes whose positions shall be designated by the governor as fully subject to the authority of such commission. (109 v. 118.)

DEPARTMENT OF HIGHWAYS AND PUBLIC WORKS

SECTION 154-40. Department of highways and public works; powers and duties. The department of highways and public works shall have all powers and perform all duties vested by law in the superintendent of public works, the state highway commissioner, the chief highway engineer, and the state building commission. Wherever powers are conferred or duties imposed upon any of such departments, offices or officers, such powers and duties shall, except as herein provided, be construed as vested in the department of highways and public works.

In addition to the powers so transferred to it, the department of highways and public works shall have the following powers:

(1) To prepare, or cause to be prepared, general plans, specifications, bills of materials, and estimates of cost for the public buildings to be erected by the state departments, offices and institutions. Nothing in this section shall be so construed as to require the independent employment of an architect or engineer as provided by section two thousand three hundred and fourteen of the General Code, in the cases to which said section applies.

(2) To have general supervision over the erection and construction of public buildings erected for the state government, or any department, office or institution thereof, and over the inspection of all materials previous to their incorporation into such buildings or work.

(3) To make contracts for and supervise the construction and repair of buildings under the control of the state government, or any department, office or institution thereof.

(4) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of the state government, or any department, office or institution thereof.

(5) To purchase all real estate required by the state government, or any department, office or institution thereof; in the exercise of which power such department shall have authority to exercise the power of eminent domain, in the manner provided by law for the exercise of such power by the superintendent of public works in the appropriation of property for the public works of Ohio, as heretofore defined; but this paragraph shall not affect the manner of the exercise of such powers by the department of highways and public works for highway purposes.

(6) To make and provide all plans, specifications and models for the construction and perfection of all systems of sewerage, drainage and plumbing for the state in connection with buildings and grounds under the control of the state government, or any department, office or institution thereof.

(7) To erect, supervise and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance thereof is otherwise provided for by law.

(8) To procure, by lease, storage accommodations for the state government, or any department, office or institution thereof.

(9) To lease unproductive and unused lands or other property under the control of the state government, or any department, office or institution thereof, excepting school and ministerial lands.

(10) To lease office space in buildings for the use of the state government, or any department, office or institution thereof.

(11) To have general supervision and care of store rooms, offices and buildings leased for the use of the state government, or any department, office or institution thereof.

(12) To exercise general custodial care of all real property of the state.

Nothing in this section or in sections 154-37 or 154-41 of the General Code shall interfere with the power of the adjutant general to purchase military supplies, or with the custody by the adjutant general of property leased, purchased or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories.

Purchases for and custody of buildings of educational institutions administered by boards of trustees shall not be subject to the control and jurisdiction of the department of highways and public works. (109 v. 118.)

SECTION 154-41. Supervision and control of state house; placing departments, etc. The department of highways and public works shall have the supervision and control of the state house and heating plant therein, the fixing and placing of all departments and offices of the state therein, and full control and supervision of fixing and placing all departments and offices in offices, buildings and rooms outside the state house when the same cannot be placed therein, materials and persons employed in and about the state house, the grounds and appurtenances thereof

and all work or materials required in or about them. The department shall rent all offices, buildings and rooms for all departments and offices of the state located outside the state house, and execute all leases in writing for the same on behalf of the state, and deposit a copy thereof in the office of the secretary of state within ten days after the lease has been executed. The department shall keep the state house, grounds and appurtenances constantly protected and in order, except that the legislative halls shall be under the control of the general assembly. A competent number of employes of the department shall be designated as policemen, and as such shall take an oath of office, wear a proper uniform and badge of office, have the same authority to make arrests as policemen of cities, and shall deliver all persons arrested by them to the police authorities of the city of Columbus to be dealt with as those arrested by the police of said city. (109 v. 119.)

DEPARTMENT OF AGRICULTURE

SECTION 154-42. Department of agriculture, powers and duties. The department of agriculture shall have all powers and perform all duties vested by law in the board of agriculture, the secretary of agriculture, the agricultural advisory board, the chief of the division of fish and game under the board of agriculture, and all officers and employes in such division, and in all other bureaus and offices established or authorized by law under the board of agriculture or the secretary of agriculture. Wherever powers are conferred or duties imposed by law upon such board of agriculture or secretary of agriculture, or upon bureaus or offices under either of them, such powers and duties shall be, excepting as herein provided, construed as vested in and imposed upon the department of agriculture. (109 v. 120.)

DEPARTMENT OF HEALTH

SECTION 154-43. Department of health, powers and duties. The department of health shall have all powers and perform all duties vested by law in the state department of health, the commissioner of health, the public health council, or in the commissioner of health and the public health council acting jointly or otherwise, and the state inspector of plumbing; and also those vested in the secretary of state and the state registrar of vital statistics with respect to the registration of vital statistics as provided in sections one hundred and ninety-seven to two hundred and thirty-four, both inclusive, of the General Code. (109 v. 120.)

SECTION 154-44. Public health council shall continue. The public health council provided for by section one thousand two hundred and thirty-four of the General Code shall continue to exist in the department of health as hereby created, and shall exercise all powers vested in it by law, excepting those provided for in paragraph (d) of section one thousand two hundred and thirty-five of the General Code, and the director of the department shall be substituted for the "commissioner of

health" for the purposes of such section. The director of health shall be chairman of the public health council. (109 v. 126.)

DEPARTMENT OF INDUSTRIAL RELATIONS

SECTION 154-5. Department of industrial relations, powers and duties; Industrial commission, a part of department for administrative purposes; appointment of advisers authorized. The department of industrial relations shall have all powers and perform all duties vested by law in the industrial commission of Ohio, excepting the following:

Those powers and duties of the commission which it exercises as successor of the state liability board of awards, the state board of arbitration, the board of boiler rules, and in the investigation, ascertainment and determination of standards, devices, safeguards, and means of protection, being all powers and duties mentioned in paragraphs 3 to 8, both inclusive, of section 871-22 of the General Code, sections 871-23, 871-26, 871-27, 871-28, 871-30, 871-32, 871-33, 871-34 and 871-35, sections 1058-8 to 1058-12, both inclusive, 1058-16, 1063, to 1077, both inclusive, and sections 1465-37 to 1465-108, both inclusive, of the General Code, and the powers of the commission as successor of the board of boiler rules under section 1058-18 of the General Code, which shall continue to be exercised and performed by the industrial commission of Ohio in the manner provided by law for the exercise of such powers and the performance of such duties.

The industrial commission of Ohio shall be a part of the department of industrial relations for administrative purposes in the following respects: The director of industrial relations shall be ex-officio the secretary of said commission, shall succeed to and perform all of the duties of the secretary of said commission, and shall exercise all powers of said secretary as provided by law; but such director may designate any employe of the department as acting secretary to perform the duties and exercise the powers of secretary of the commission. All clerical, inspection and other agencies for the execution of the powers and duties vested in the said industrial commission shall be deemed to be in the department of industrial relations, and the employes thereof shall be deemed to be employes of said department and shall have and exercise all authority vested by law in the employes of such commission. But the industrial commission of Ohio shall have direct supervision and control over, and power of appointment and removal of, such employes whose position shall be designated by the governor as fully subject to the authority of such commission.

The commission may appoint advisers, who shall without compensation assist the commission in the execution of the powers and duties retained by it under this section. (109 v. 121.)

DEPARTMENT OF EDUCATION

SECTION 154-46. Department of education, powers and duties; boards and committees attached to department. The department of education shall have all powers and perform all duties vested by law in

the industrial commission of Ohio and the board of censors of motion picture films by sections 871-48 to 871-53, both inclusive, of the General Code.

The following boards and committees shall be attached to the department of education:

The state board of accountancy, the state medical board, the nurses' examining committee, the state board of optometry, the state board of pharmacy, the state dental board and the state board of embalming examiners.

Such boards and their officers shall continue to exercise their functions as heretofore. It shall be the duty of the department of education to recommend standards as to preliminary education; to recommend methods of determining the standing of professional schools and colleges; to recommend methods of conducting examinations and hearings; and to recommend methods of enforcing the laws which they are respectively required to administer. Such boards are hereby severally authorized to delegate to the department of education any of the powers or duties in them vested by law with respect to the matters and things concerning which the department is herein directed to make recommendations; and the department of education is hereby authorized and required to exercise any such power or perform any such duty so delegated with like effect in law as if the same had been exercised by the board so delegating such power. Nothing in this chapter shall be so construed or applied as to compel the delegation of any such powers or duties. (109 v. 121.)

SECTION 154-47. Advisory board of film censorship. An advisory board of three members is hereby created in the department of education, to be known as the advisory board of film censorship. The members of this board shall be appointed by the governor, to serve during his pleasure, and shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their official duties. Such board shall assist and advise the department of education in the examination and censorship of motion picture films. (109 v. 121.)

SECTION 154-48. Further powers and duties. The department of education shall have all the powers and perform all the duties now vested in the superintendent of public instruction and those vested in the state geologist. (109 v. 122.)

SECTION 154-49. State board of vocational education established; duties; employment of assistants. A state board of vocational education is hereby established in the department of education, in order to carry out the provisions of the law accepting the acts of Congress providing for cooperation with the states in the promotion of such education. Such board shall be composed of the director of education, the director of commerce, the director of agriculture, the director of industrial relations, and the director of finance. The director of education shall be chairman and executive officer of the board. Upon the recommendation of the director of education, the board may employ such technical assistants as may be necessary and prescribe their duties and compensation. In all other respects, the state board of vocational education shall exercise the powers

and perform the duties vested in the state board of education by sections 367-5, 367-6 and 367-7 of the General Code. (109 v. 122.)

SECTION 154-50. Director, ex-officio trustee of Kent, Bowling Green and Wilberforce schools. The director of education shall be ex-officio a member of the board of trustees of Kent state normal school and of the board of trustees of Bowling Green state normal school, and of the combined normal and industrial department at Wilberforce University, with power to speak, but not to vote in such boards of trustees. The membership in each of such boards herein provided for shall be in addition to the membership thereof as otherwise provided by law. (109 v. 123.)

SECTION 154-51. State library board created; appointment, term, compensation. A state library board is hereby created in the department of education, to be composed of the director of education, as chairman, and four other members. The members other than the director of education shall be appointed by the governor. The first appointments under this section shall be as follows: One member for a term of two years, one member for a term of four years, one member for a term of six years and one member for a term of eight years. Thereafter one member shall be appointed each two years for a term of eight years. The members other than the director of education shall receive no compensation, but shall be paid their actual and necessary expenses incurred in the performance of their duties. (109 v. 123.)

SECTION 154-52. State librarian, appointment, powers and duties. The state library board shall appoint and may remove a state librarian, who shall, under the direction and supervision of the board, be the head of the library service of the state, with power to appoint and remove all assistants and heads of departments in the state library service. (109 v. 123.)

SECTION 154-53. Rules for government of library. The state library board shall make such rules for the government of the state library, the use and location of the books and other property therein or the transfer thereof as it deems necessary or advantageous to the library service of the state. It shall organize the library service of the state into departments and determine the number of assistants and other employes therein. (109 v. 123.)

SECTION 154-54. State librarian, secretary of board; further powers and duties. The state librarian shall be secretary of the state library board. Under the direction and supervision of the state library board and subject to the rules and regulations established by it, the state librarian shall, through such departments as may be created by the board, exercise all powers and perform all duties vested by law in the state board of library commissioners, the librarian heretofore appointed by the state board of library commissioners, the library organizer heretofore appointed by the state board of library commissioners and the legislative reference department and the director thereof. (109 v. 123.)

SECTION 154-55. Director a member of board of trustees of Ohio archæological and historical society; how moneys for support of society shall be drawn from society. The director of education shall be a member of the board of trustees of the Ohio archæological and historical so-

ciety, in addition to the members constituting such board under the other laws and regulations pertaining to the membership thereof. No moneys appropriated for the use or support of the Ohio archæological and historical society shall be withdrawn from the state treasury for such use until the board of trustees of said society, as constituted when this section takes effect, shall consent to the provisions hereof and file duplicate certificates of such consent in the offices of the secretary of state and the auditor of state. (109 v. 123.)

SECTION 154-56. Director a member of board of trustees of Ohio State University. The director of education shall be a member of the board of trustees of the Ohio State University, with power to speak but not to vote therein. The membership in said board hereby created shall be in addition to those provided for by section seven thousand nine hundred and forty-two of the General Code. (109 v. 124.)

DEPARTMENT OF PUBLIC WELFARE

SECTION 154-57. Department of public welfare, powers and duties. The department of public welfare shall have all powers and perform all duties vested in or imposed upon the Ohio board of administration and the fiscal supervisor-secretary thereof, excepting the power to purchase supplies for the support and maintenance of state institutions provided for in section one thousand eight hundred and forty-nine of the General Code, by this chapter transferred to the department of finance; and said department of public welfare shall also have all powers and perform all duties vested in or imposed upon the board of state charities, and the board of clemency. Wherever powers are conferred or duties imposed by law upon the boards and officers mentioned in this section such powers and duties, except as aforesaid, shall be construed as vested in the department of public welfare.

The department of public welfare, with the approval of the governor, may assign labor of prisoners and inmates of institutions under the administration of the department of public welfare on any public work of the state. (109 v. 124.)

SECTION 154-58. Ohio commission for the blind under control of department of public welfare. The Ohio commission for the blind shall be a part of the department of public welfare for administrative purposes. The president of said commission shall act as general secretary of the commission; but the director of public welfare may designate employes of the department to assist such secretary in the performance of the detailed duties of his position. Such director shall be the executive officer of such commission, and all clerical and other administrative agencies for the execution of the powers and duties vested in the said Ohio commission for the blind shall be deemed to be in the department of public welfare, and the employes shall be deemed to be employes of said department. (110 v. 326.)

SECTION 2. Amendments and enactments. Sections 243, 321, 496, 710-6, 840, 1170, 1171, 1172, 1173, 1178, 1233, 1261-2, 1807, 1857, 1931-1, 2248, 2250, 2312, 2313 and 7939, inclusive, of the General Code are hereby

amended to read as follows: the section enacted by the act approved March 29, 1917, and therein designated as section 2288-1 of the General Code, is hereby re-numbered as section 2288-2 of the General Code and amended to read as follows; and supplemental sections 2249-1 and 7931-1 of the General Code are hereby enacted, as follows:

SECTION 243. Examination of each voucher or claim before issue of warrant. The auditor of state shall examine each voucher presented to him, or claim for salary of an officer or employe of the state, or per diem and transportation of the commands of the national guard, or sundry claim allowed and appropriated for by the general assembly, and if he finds it to be a valid claim against the state and legally due, and that there is money in the state treasury duly appropriated to pay it and that all requirements of law have been complied with, he shall issue thereon a warrant on the treasurer of state for the amount found due, and file and preserve the invoice in his office. He shall draw no warrant on the treasurer of state for any claim unless he finds it legal, and that there is money in the treasury which has been duly appropriated to pay it. (109 v. 125.)

SECTION 321. Board of deposit; duties. There shall be a board of deposit, consisting of the treasurer of state, director of finance and attorney general, which officers shall perform the duties herein prescribed. The treasurer shall be chairman of said board. The cashier of the state treasury shall be the secretary to the board and shall keep its records. A duly certified copy of such records shall be prima facie evidence of the matter appearing therein in any court of record. (109 v. 125.)

SECTION 496. Powers and duties of secretary of commission. It shall be the duty of the secretary of the commission to keep a full and true record of all proceedings of the commission, to issue all necessary process, writs, warrants and notices, to keep all books, maps, documents and papers ordered filed by the commission, and of all orders made by a commissioner, or by the commission, or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents in its office. Under the direction of the commission the secretary shall have general charge of its office, superintend its clerical business and perform such other duties, as the commission may prescribe. He may administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission. (109 v. 125.)

SECTION 710-6. Superintendent of banks; appointment, term, duties. The governor, with the advice and consent of the senate, shall appoint the superintendent of banks in the department of commerce, who shall hold his office for the term of two years unless sooner removed at the will of the governor. (109 v. 125.)

The superintendent of banks shall execute the laws in relation to banks. (109 v. 125.)

SECTION 840. Salaries and expenses of division of state fire marshal shall not exceed amount paid by fire insurance companies. The salaries, compensation of clerks and assistants and all other expenses in

the division of the state fire marshal necessary in the performance of the duties imposed upon it by law, shall not exceed in any year the amount paid into the state treasury for that year by fire insurance companies as provided in the next following section, and by the state fire marshal as provided in this act. (109 v. 126.)

SECTION 1170. Ohio Agricultural Experiment Station; control, management and supervision. There shall be a state agricultural experiment station for the prosecution of practical and scientific research in agriculture and forestry and the development of the agricultural resources of the state. It shall be known as the Ohio agricultural experiment station, and shall be under the control, management, supervision and direction of a board of control, which shall consist of the director of agriculture and the members of the board of trustees of the Ohio state university. (109 v. 126.)

SECTION 1171. Board of control may receive and hold in trust, grant, devise, donation or bequest. The board of control may receive and hold in trust in the name of the state of Ohio and for the use and benefit of the Ohio agricultural experiment station a grant or devise of land or a donation or bequest of money, or other personal property, to be applied to the general or special use of the station, as directed by the donor. (109 v. 126.)

SECTION 1172. Title to lands shall be conveyed in fee simple. The title of all lands for the use of the Ohio agricultural experiment station shall be conveyed in fee simple to the state, but no title shall be conveyed for such purposes until the attorney general is satisfied that it is free from defects and encumbrances. (109 v. 126.)

SECTION 1173. Powers and duties of board of control; "the state board of agriculture"; qualifications, appointments, term, duties, compensation. The board of control shall exercise all powers, and through such agency as it may select, perform such duties as are vested by any law in or imposed upon the board of control of the Ohio agricultural experiment station.

The governor shall appoint an advisory board, which shall be known as "the state board of agriculture" and which shall consist of ten members, who shall be practical farmers. The initial appointments hereunder shall be as follows: Two members to serve for one year, two for two years, two for three years, two for four years and two for five years. Thereafter two members shall be appointed each year for the period of five years. Such board shall advise the department of agriculture with respect to the work of that department; the board of control of the Ohio agricultural experiment station; and the department of public welfare with reference to the management of institutional farms. Such board shall exercise no administrative function and its members shall receive no compensation, but may receive their actual and necessary expenses, which shall be paid from appropriations made to the department of agriculture. This section shall not be so construed as to prevent the appointment in the department of agriculture or the department of public welfare of other advisory boards authorized by law. (109 v. 126.)

SECTION 1178. Purposes and duties of the department of highways and public works. The department of highways and public works shall be for the purpose of constructing, improving, maintaining and repairing a state system of highways, co-operating with the federal government in the construction, improvement, maintenance and repair of post roads or other roads designated by the federal authorities, and affording instruction, assistance and co-operation to the counties, townships and other subdivisions of the state in the construction, improvement, maintenance and repair of the public roads and bridges of the state, under the provisions of this chapter. (109 v. 127.)

SECTION 1233. Commissioner of health, duties of, prescribed. The commissioner of health shall perform all executive duties now required by law of the state board of health and the secretary of the state board of health, and such other duties as are incident to his position as chief executive officer. He shall administer the laws relating to health and sanitation and the regulations of the state department of health. He shall prepare sanitary regulations for consideration by the public health council and shall submit to said council recommendations for new legislation. (109 v. 127.)

SECTION 1261-2. Plumbing inspectors; qualifications; Rules and regulations; Plans and specifications. In the department of health there shall be such number of plumbing inspectors as the necessities of the work shall require and the appropriations for such inspections will permit. Such inspectors shall be practical plumbers with at least seven years' experience, and skilled and well trained in matters pertaining to sanitary regulations concerning plumbing work. The department of health shall have the power to make and enforce rules and regulations governing plumbing and register those persons engaged in or at the plumbing business to carry out the provisions of this act. Plans and specifications for all sanitary equipment or drainage to be installed in or for buildings coming within the provisions of this act shall be submitted to and approved by the department of health before the contract for installation of the sanitary equipment or drainage shall be let. (109 v. 127.)

SECTION 1807. How board of an institution may acquire real estate. When it is necessary for a state benevolent, correctional or penal institution, or for the accomplishment of the purposes for which it was organized, or is being conducted, to acquire any real estate, right of way or easement in real estate, and the state officer or board in control thereof is unable to agree with the owner or owners thereof upon the price to be paid therefor, such property may be appropriated in the manner provided by law for the appropriation of property for other state purposes. (109 v. 127.)

SECTION 1857. Power to employ engineers, superintendents, etc., fix titles and compensation. The board (Department of Public Welfare) may employ such mechanical engineers, superintendents and supervisors as it may deem necessary, and fix their titles and compensation which, with all necessary expenses when itemized and approved, shall be paid like other expenses of the board. (109 v. 127.)

SECTION 1931-1. Board of trustees Ohio Soldiers' and Sailors' Orphans' Home; appointment, term, vacancy; powers and duties. There shall be a board known as the Board of Trustees of the Ohio Soldiers' and Sailors' Orphans' Home, who shall have charge and custody of the Ohio Soldiers' and Sailors' Orphans' Home at Xenia, Ohio, which said board shall consist of five members. The governor, with the advice and consent of the senate, shall appoint the members of such board upon the passage of this act; one for five years, one for four years, one for three years, one for two years, and one for one year, and thereafter each year the governor, with the advice and consent of the senate, shall appoint, for the Ohio Soldiers' and Sailors' Orphans' Home at Xenia, Ohio, one trustee, who shall serve for a term of five years from the ensuing first Monday in April. A vacancy in the office of trustee occasioned by expiration of term, removal or otherwise shall be filled in the same manner as the original appointment, and shall be for the remainder of the term. At any time the governor may remove any trustee with the advice and consent of the senate. During the recess of the senate he may suspend any trustee but shall report his action to the senate at its next session, and, if the senate so advise and consent, such trustee shall be removed, but otherwise he shall be restored to his office. The governor shall designate a person to perform the duties of the suspended trustee during such suspension. The nomination by the governor and confirmation by the senate of a person to take the place of a trustee in office, shall be a removal of such trustee.

Such board shall govern, conduct and care for such home, the property thereof and the inmates therein as provided in the laws governing "The Ohio Board of Administration" so far as the provisions thereof are not inapplicable and are not inconsistent with the provisions of the laws governing such homes.

Three members of such board shall constitute a quorum but any two may approve accounts for the payment of current expenses, salaries and open contracts previously entered into by the board.

All supplies for such home shall be purchased as provided in section one thousand eight hundred forty-nine of the General Code. (109 v. 128.)

SECTION 2248. Salaries of elective executive state officers. The annual salaries of the elective executive officers of the state shall be as follows:

- Governor, ten thousand dollars;
- Lieutenant-governor, two thousand dollars;
- Secretary of state, six thousand five hundred dollars;
- Auditor of state, six thousand five hundred dollars;
- Treasurer of state, six thousand five hundred dollars;
- Attorney general, six thousand five hundred dollars. (109 v. 128.)

SECTION 2250. Salaries of appointive State officers and employes. The annual salaries of the appointive state officers and employes herein enumerated shall be as follows:

Department of Finance:

- Director of finance, six thousand five hundred dollars.
- Superintendent of budget, four thousand dollars.

Superintendent of purchases and printing, five thousand dollars.

Department of Commerce:

Director of commerce, six thousand five hundred dollars.

Superintendent of building and loan associations, five thousand dollars.

State fire marshal, four thousand five hundred dollars.

Superintendent of insurance, five thousand dollars.

Department of Highways and Public Works:

Superintendent of public works as director of highways and public works, six thousand five hundred dollars.

State architect and engineer, four thousand dollars.

State highway engineer, five thousand dollars.

Department of Agriculture:

Director of agriculture, six thousand five hundred dollars.

Chief of division of animal industry, three thousand six hundred dollars.

Chief of division of fish and game, three thousand six hundred dollars.

Chief of division of foods and dairies, three thousand dollars.

Chief of division of plant industry, three thousand dollars.

Chief of division of state fair, three thousand six hundred dollars.

Department of Health:

Director of health, six thousand five hundred dollars.

Department of Industrial Relations:

Director of industrial relations, six thousand five hundred dollars.

Chief of division of factory inspection, three thousand six hundred dollars.

Chief of division of labor statistics, three thousand dollars.

Chief of division of mines, three thousand six hundred dollars.

Department of Education:

Superintendent of public instruction as director of education, six thousand five hundred dollars.

Chief of division of examination and licensing, two thousand five hundred dollars.

Chief of division of film censorship, three thousand six hundred dollars.

Director of public welfare, six thousand five hundred dollars.

Fiscal supervisor, four thousand dollars.

Superintendent of charities, four thousand dollars.

Superintendent of pardon and parole, four thousand dollars.

Commissioner of soldiers' claims, two thousand, five hundred dollars.

The assistant director of a department designated to fill one of the offices within such department for which a salary is fixed by this section shall receive the salary fixed herein for the position so held by him. (109 v. 129.)

SECTION 2288-2. **Certification of balance required before contract.** It shall be unlawful for any officer, board or commission of the state to enter into any contract, agreement or obligation involving the expendi-

ture of money, or pass any resolution or order for the expenditure of money, unless the director of finance shall first certify that there is a balance in the appropriation pursuant to which such obligation is required to be paid, not otherwise obligated to pay precedent obligations. (109 v. 130.)

SECTION 2312. Emergency Board, how composed. There shall be an emergency board to consist of the governor, or a designated officer or employe, if appointed by the governor for such purpose, the chairman of the senate finance committee, and chairman of the house finance committee. The governor shall be president and the director of finance shall be secretary of the board; but the director of finance may designate an employe in his department to act as such secretary. The secretary shall keep a complete record of all its proceedings. The chairman of the senate and house finance committees shall be paid their necessary traveling expenses upon presentation to the auditor of state of an itemized account of the same, while engaged in their duties as such members, which shall be paid from the funds appropriated for the payment of expenses of legislative committees, upon vouchers approved by the auditor of state, and the auditor of state is hereby authorized to draw his warrants upon the treasurer of state therefor. (109 v. 130.)

SECTION 2313. How authority obtained to make expenditures in case of deficiency or emergency. In case of any deficiency in any of the appropriations for the expenses of an institution, department or commission of the state for any biennial period, or in case of an emergency requiring the expenditure of money not specifically provided by law, the trustees, managers, directors or superintendent of such institution, or the officers of such department or commission, may make application to the emergency board for authority to create obligations within the scope of the purpose for which such appropriations were made or to expend money not specifically provided for by law. Such applicant shall fully set forth to the secretary in writing the facts in connection with the case. As soon as can be done conveniently, the secretary shall arrange for a meeting of the board, and shall notify the applicant of the time and place of the meeting and request his presence. No authority to make such expenditures shall be granted with the approval of less than two members of the board, who shall sign it. (109 v. 131.)

SECTION 7939. Appointment of trustees. The government of Miami university shall be vested in twenty-seven trustees, to be appointed by the governor by and with the advice and consent of the senate. Nine trustees shall be appointed every third year, for a term of nine years, beginning on the first day of March in the year of their appointment. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner. In addition to the trustees herein provided for, the director of education shall be a member of the board of trustees of Miami university, with power to speak but not to vote therein. (109 v. 131.)

SECTION 2249-1. Pay of adjutant general, assistant and quartermaster. The adjutant general, the assistant adjutant general, and the assistant quartermaster general shall receive the pay and allowance of their rank according to those at the time prescribed for the armies of the United States. (109 v. 131.)

SECTION 7931-1. Appointment of trustees. The body politic and corporate by the name and style of "The President and Trustees of the Ohio University" now in the university instituted and established in the village of Athens by the name and style of "The Ohio University" shall hereafter consist of a board of trustees composed of the director of education and seven members, at least four of whom shall be graduates of Ohio university, to be appointed by the governor, by and with the advice and consent of the senate; but all persons now serving as members of said body politic and corporate may continue to serve as members thereof; and so long as they continue to serve such body politic and corporate shall consist of such present members together with the members whose positions are hereby created; but no successors shall be appointed to such persons now serving. The director of education shall have power to speak, but not to vote in such board of trustees. In the year 1922 the governor shall appoint seven members of such body politic and corporate, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years and one for a term of seven years, all commencing on the fourteenth day of May of such year. Thereafter one trustee shall be appointed each year for a term of seven years from the fourteenth day of May of such year, and serve until his successor is appointed and qualified. A vacancy in the office of trustee shall be filled by like appointment for the unexpired term. Such trustees shall receive no compensation for their services, but shall be paid their actual and necessary expenses while engaged in the discharge of their official duties. No moneys appropriated for the use or support of the Ohio University shall be withdrawn from the state treasury for such use until "The President and Trustees of the Ohio University", as constituted when this section takes effect, shall consent to the provisions hereof and file duplicate certificates of such consent in the offices of the secretary of state and the auditor of state. (109 v. 131.)

SECTION 3. Sections and acts repealed. Said original sections 243, 321, 496, 710-6, 840, 1170, (enacted as section 93 of an act entitled "An Act to create the agricultural commission of Ohio and to prescribe its organization", etc., approved May 3, 1913, (103 Ohio Laws 323), 1170, (enacted as section 1 of an act entitled "An Act to create a board of control for the Ohio agricultural experiment station", etc., approved April 8, 1915, (106 Ohio Laws, 122), 1171, 1172, (enacted as section 95 of an act entitled "An Act to create the agricultural commission of Ohio and to prescribe its organization", etc., approved May 3, 1913 (103 Ohio Laws, 324), 1172, (enacted as section 7 of an act entitled "An Act to create a board of control for Ohio agricultural experiment station", etc., approved April 8, 1915, (106 Ohio Laws, 123), 1173, (enacted as section 96 of an act entitled "An Act to create the agricultural commission of Ohio and to prescribe its organization", etc., approved May 3, 1913, (103 Ohio Laws, 324), 1173, (enacted as section 8 of an act entitled "An Act to create a board of control for the Ohio agricultural experiment station", etc., approved April 8, 1915, (106 Ohio Laws, 123), 1178, 1233, 1261-2, 1807, 1857, 1931-1, 2248, 2250, 2288-1 as enacted by the act approved March 29, 1917 (107 O. L. 457), 2312, 2313 and 7939 of the General Code,

and sections 86, 87, 88, 89, 90, 146, 147, 148, 149, 150, 151, 152, 153, 154, 196-1, 196-2, 196-3, 196-16, 196-18, 199, 242-1, 242-2, 270-1, 270-4, 270-5, 367-3, 367-4, 403-1, 406, 408, 409, 498, 615, 616, 618, 619, 620, 674, 675, 744-14, 744-15, 744-16, 744-17, 744-19, 744-20, 744-23, 746, 747, 752, 788, 789, 790, 791, 798-2, 798-4, 798-8, 799, 800, 801, 820, 821, 822, 823, 842, 844, 845, 848, 871-46, 871-47, 905, 982, 1079, 1079-1, 1080, 1081, 1083, 1084, 1087, 1087-2, 1088, 1089, 1089-1, 1099, 1123, 1171-2, 1171-3, 1177-22, 1177-23, 1177-24, 1177-25, 1179, 1180, 1183, 1232-1, 1233-1, 1236-2, 1261-1, 1440, 1465-8, 1465-43, 1808, 1809, 1833, 1834, 1836, 1837, 1841-7, 1861 and 5227 of the General Code are hereby repealed. (109 v. 132.)

SECTION 4. Employees in classified service shall be assigned in proper department; transfer of books, records, papers, property, etc. Every officer and employe in the classified civil service of the state civil service at the time this act takes effect shall be assigned to a position in the proper department created by this act, and, so far as possible, to duties equivalent to his former office or employment; and such officers and employes shall be employes of the state in the classified civil service of the state of the same standing, grade and privileges which they respectively had in the office, board, department, commission or institution from which they were transferred, subject, however, to existing and future civil service laws. This section shall not be construed to require the retention of more employes than are necessary to the proper performance of the functions of such departments.

All books, records, papers, documents, property, real and personal, and pending business in any way pertaining to the rights, powers and duties by this act transferred to or vested in a department created by this act, or to or in any other office, department or institution, at the time this act takes effect shall be delivered and transferred to the department, office or institution succeeding to such rights, powers and duties.

Acts done, rights established, etc., shall not be affected. This act shall not affect any act done, ratified or affirmed, or any right accrued or established, or any pending action, prosecution or proceedings, civil or criminal, at the time it takes effect; nor shall this act affect causes of such action, prosecution or proceeding existing at the time it takes effect; but such actions, prosecutions or proceedings may be prosecuted and continued, or instituted and prosecuted, by or before the department having jurisdiction or power under this act of the subject matter to which such action, prosecution or proceeding pertains.

Temporary appointments. If the senate is not in session at the time initial appointments are to be made under this act, the governor shall make temporary appointments as in case of a vacancy, to all offices required by this act to be filled by appointment by the governor by and with the advice and consent of the senate, unless the initial appointments are otherwise provided for in this act.

Present boards, departments, etc., shall continue to end of fiscal year. If this act shall go into effect prior to the expiration of the present fiscal year, the present existing departments, bureaus, offices, boards, commissions, and other organizations of the state government affected by this act shall continue, and the officers and employes therein shall continue to serve until the expiration of the present fiscal year for

which appropriations have been made, unless their terms of office expire prior thereto; and the reorganization herein provided for shall be put into effect and the officers whose positions are hereby created shall assume their duties at the commencement of the succeeding fiscal year. (109 v. 132.)

SECTION 5. Emergency act. Committee to make investigation by 83rd General Assembly. This act is hereby declared to be an emergency law necessary for the immediate preservation of the public peace, health and safety. The reasons for such necessity lie in facts, which two-thirds of all the members elected to each branch of the general assembly have considered, found and determined and which are separately set forth herein, as follows:

The eighty-third general assembly created a joint legislative committee to "investigate all of the * * * offices which have been created by the general assembly * * * with a view of * * * combining and centralizing the duties of the various departments, eliminating such as are useless and securing for the state of Ohio such a reorganization of its governmental activities as will promote greater efficiency and greater economy therein." Said committee made exhaustive investigations and published numerous reports, declaring the necessity of reorganizing fundamentally the executive branch of the state government in order to promote efficiency and conserve the public funds. Upon the organization of the eighty-fourth general assembly, special committees were appointed in each house thereof to consider the recommendations of the former joint committee. The governor, in his message to the general assembly, recommended action along the general lines indicated by the former committee's report. Wide publicity has been given to various projected plans of reorganization.

According to the annual reports of the auditor of state, the balances subject to draft in the general revenue fund of the state, from which many of the activities of the state government are supported, had shrunk from more than two million dollars on June 30th, 1919, to less than one million dollars on June 30th, 1920, (all of which, and more, was covered by unexpired appropriations for the preceding fiscal year), clearly indicating the immediate necessity either for increasing the revenues of the state, or for effecting such a reorganization of the state administration as would tend to conserve the present revenues. General economic conditions make increased taxes highly undesirable at the present time.

At the convening of the eighty-fourth general assembly numerous vacancies existed in various state offices and in various state boards, and other like vacancies have occurred since that time. By reason of the known probability of a reorganization such as is embodied in this act, persons appointed to fill such vacancies have uncertain tenure and are thereby deterred from initiating and carrying through definite administrative policies; and in several instances such appointments have been accepted temporarily only, pending early reorganization.

As a result of all the foregoing, the state service in the appointive state departments, shown by said investigations to be wasteful and inefficient, is becoming increasingly demoralized. All of these departments exercise functions pertaining to the protection of the public health, the

conservation of the public peace and morals, or the promotion of the public safety. The necessity of placing their functions upon a sound, economical, permanent and secure basis is great and immediate.

The appropriations for the current expenses of the state government and institutions which must be made by the eighty-fourth general assembly for the fiscal biennium beginning July 1st, 1921, cannot be effectually apportioned nor their amounts fixed unless the reorganization effected by this act is operative during the period to be covered by such appropriations, so that the departments and offices of the state government are definitely determined; and such determination must be made and the framework of the executive branch of the state government must be definitely established and known at the time the general assembly is considering such appropriations.

The sectional numbers in this act are in conformity to the General Code.

JOHN G. PRICE, *Attorney General.*

Therefore, this act shall go into immediate effect.

RUPERT BEETHAM,
Speaker of the House of Representatives.

CLARENCE J. BROWN,
President of the Senate.

Passed April 19, 1921.

Approved April 26, 1921.

HARRY L. DAVIS,
Governor.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 26th day of April, A. D. 1921.

SECTION 173-2. Approval by printing commission before publication. No officer, board or commission, shall print or cause to be printed at the public expense, any report, bulletin or pamphlet, unless such report, bulletin or pamphlet be first submitted to and the publication thereof approved by the commissioners of public printing. If such commission shall approve the publication thereof, it shall determine the form of such publication and the number of copies thereof, provided that in all cases the commissioners of public printing shall cause their action thereon to be entered upon the minutes of their proceedings.

Where printing may be done. If such approval is given, the commissioners shall cause the same to be printed, and may authorize such printing to be done at any penal, correctional or benevolent institution of the state having a printing department of sufficient equipment therefor; and when printed, such publications, other than the Ohio General Statistics, shall be delivered to such officer, board or commission for distribution by him or it. (106 v. 508.)

SECTION 174. Officers must answer questions; penalty. Each state, county and other officer under the laws of this state, shall answer fully, promptly and without compensation, such special and general questions for securing statistical information as the secretary of state may pro-

pose. If any officer refuses or neglects to furnish promptly full and accurate answers to any such questions, he shall forfeit and pay not less than five dollars nor more than fifty dollars, to be recovered by civil action in the name of the state. When directed by the secretary of state, the prosecuting attorney of the proper county shall institute and prosecute such action and pay the amount collected into the county treasury. (65 v. 92.)

SECTION 246. Duplicate warrants; when and how issued. Whenever it is made to appear to the satisfaction of the auditor of state, by affidavit or otherwise, that any warrant on the state treasury by him issued has been lost or destroyed prior to its presentation for payment, and there is no reasonable probability of its being found or presented, such auditor may issue to the proper person a duplicate of such lost or destroyed warrant, provided that before issuing such duplicate said auditor of state shall require of the person making such application a bond in double the amount of such claim, payable to the state of Ohio, with surety to the approval of said auditor and of the treasurer of state, and conditioned to make good any loss or damage sustained by any person or persons on account of the issuance of said duplicate and the subsequent presentation and payment of the original. The form of said bond is to be prepared by the attorney general and the bond when executed filed in the office of the treasurer of state. The duplicate warrant issued shall be plainly stamped or marked so that its character may be readily and easily ascertained, and in no event shall any liability attach to the treasurer of state on account of his paying any duplicate warrant issued under authority of this section. (104 v. 162.)

SECTION 267. Record of land titles deposited with auditor of state. The evidence of title of lands other than public lands, belonging to or hereafter acquired by the state, shall be recorded in the office of the recorder of the counties in which they are situated, and when so recorded such evidence of title shall be deposited with the auditor of state and kept in his office. He shall make an abstract of the title of all lands acquired by the state in a book prepared for that purpose and open for inspection by all persons interested. (74 v. 56.)

SECTION 268. Account of claims kept by auditor of state; certified to attorney general for adjustment or judgment. The auditor of state shall keep an account of claims reported to him by an officer or agent of the state which reports shall be made in such form and manner as may be prescribed by the auditor of state. Upon the receipt of such reports the auditor of state shall certify a copy thereof to the attorney-general, who shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of such indebtedness. The attorney-general shall collect such claim or secure judgment and execution thereon. Such claims shall bear interest at the rate of six per cent per annum from the day on which they respectively fall due. The attorney-general and auditor of state may adjust any claim in such manner as they deem equitable. They may extend the time of the payment of a claim or judgment due the state for such period of time as they deem best for the interests of the state, but not to exceed one year, and they may require and take security for its payment. (107 v. 546.)

SECTION 270-2. Biennial statements to be furnished by auditor of state. On or before the fifteenth day of November, biennially, in the even numbered years the auditor of state shall furnish to the governor the following statements:

1. A statement showing the balance standing to the credit of the several appropriations for each department, institution, commission and office of the state, and for each and every current purpose of the state government, at the end of the last fiscal year.

2. A statement showing monthly revenues and expenditures from each appropriation account in the twelve months, and the monthly revenues and expenditures from all the appropriation accounts in the twelve months of the last fiscal year.

3. A statement showing the annual revenues and expenditures of each appropriation account for each year of the last four fiscal years in which any appropriation account has existed.

4. A statement showing the monthly average of such expenditures from each of the several appropriation accounts for the last fiscal year, and also the total monthly average from all of them for the last four fiscal years. (103 v. 658.)

SECTION 270-3. Departments, etc., shall furnish information to governor. The departments, institutions, commissions and officers of the state, upon request, shall forthwith furnish to the governor any information desired in relation to the affairs of their respective departments, institutions or officers. (103 v. 659.)

See Sections 154-31; 154-33; 154-34.

SECTION 273-1. Accountant's inventory. The auditor of state, not more than twenty days nor less than ten days, prior to the expiration of the term of office of any state official, who is the head of a department, shall send an accountant to the office of such retiring state official for the purpose of making an inventory of all properties, supplies, furniture, credits and moneys, and any other thing belonging to the state, which it shall be the duty of such retiring official to turn over to his successor in office, or pay into the state treasury, and when such inventory has been made, such said accountant shall prepare a schedule thereof, and sign the same as such state accountant; one copy of which shall be delivered to such retiring state official, one copy thereof to his successor in office, and one copy thereof to be filed with the governor, one copy thereof to be filed with the auditor of state, and one copy thereof to be filed with the attorney general. (101 v. 213.)

SECTION 273-2. Accountant's statement. It shall be the further duty of such accountant to check over the transactions of such state official during his term in office, and shall make a statement thereof, in writing, to be included in such report as hereinbefore provided. Such statement shall show what sum or sums of money remain in the hands of such retiring state official at the time of the expiration of his office, which said sum or sums of money it may be his duty to turn over to his successor in office, or pay into the state treasury as provided by law. (101 v. 213.)

SECTION 273-3. Exception as to auditor of state. Provided nevertheless, that when such retiring state official shall be the auditor of state, then an accountant shall be employed by the governor to perform the duties and make the report as provided in this act, so far as such examination shall affect or concern the transactions of the outgoing auditor of state. Such accountant shall be paid out of the fund provided for the bureau of accounting. (101 v. 213.)

SECTION 273-4. State institutions or departments. When any department or any institution of this state is controlled or managed by a board composed of two or more members, then and in that event, the transactions of such department or institution shall be examined as provided in this act, when any member or members of such board shall retire from office. (101 v. 213.)

INSPECTION AND SUPERVISION OF PUBLIC OFFICES

SECTION 274. Bureau of inspection and supervision. There shall be a bureau of inspection and supervision of public offices in the department of auditor of state which shall have power as hereafter provided in sections two hundred and seventy-five to two hundred eighty-nine, inclusive, to inspect and supervise the accounts and reports of all state offices, including every state educational, benevolent, penal and reformatory institution, public institution and the offices of each taxing district or public institution in the state of Ohio. Said bureau shall have the power to examine the accounts of every private institution, association, board of corporation receiving public money for its use and purpose, and may require of them annual reports in such form as it may prescribe. The expense of such examination shall be borne by the taxing district providing such public money. By virtue of his office the auditor of state shall be chief inspector and supervisor of public offices, and as such appoint not exceeding two deputy inspectors and supervisors, and a clerk. No more than one deputy inspector and supervisor shall belong to the same political party. (106 v. 26.)

ATTORNEY GENERAL

SECTION 333. Duties. The attorney general shall be the chief law officer for the state and all its departments. No state officer, board, or a head of a department or institution of the state shall employ, or be represented by, other counsel or attorneys-at-law. The attorney general shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state may be directly or indirectly interested. When required by the governor or the general assembly, he shall appear for the state in any court or tribunal in a cause in which the state is a party, or in which the state is directly interested. Upon the written request of the governor, he shall prosecute any person indicted for a crime. (97 v. 59.)

SECTION 341. Legal advice to state officers and boards. The attorney general, when so requested, shall give legal advice to a state officer, board or commission, the warden or directors of the penitentiary,

the superintendent, trustee, or directors of a benevolent or reformatory institution of the state, and the trustees of the Ohio State University, in all matters relating to their official duties. (70 v. 19.)

SECTION 344. Shall prepare forms of contracts. The attorney general shall prepare suitable forms of contracts, obligations and other like instruments of writing for the use of state officers when requested by the governor, secretary of state, auditor of state or treasurer of state. (50 v. 267.)

SECTION 349. Actions to be taken out of their order. Upon motion of the attorney general, embodying a statement that the public interests require it, a civil action, brought or prosecuted by him on behalf of the state, or an officer, board of commission thereof, or an action in which the state is a party, shall be taken out of its order, upon the docket and assigned for trial at as early day as practicable. (75 v. 125.)

CIVIL SERVICE

SECTION 486-8. Positions in unclassified service. The civil service of the state of Ohio and the several counties, cities and city school districts thereof shall be divided into the unclassified service and the classified service.

(a) The unclassified service shall comprise the following positions which shall not be included in the classified service, and which shall be exempt from all examinations required in this act.

1. All officers elected by popular vote or persons appointed to fill vacancies in such offices.

2. All election officers and the employes and clerks of persons appointed by boards of deputy supervisors and inspectors of elections.

3. The members of all boards and commissions and heads of principal departments, boards and commission [commissions] appointed by the governor or by and with his consent; and the members of all boards and commissions and all heads of departments appointed by the mayor, or if there be no mayor such other similar chief appointing authority of any city or city school district. Provided, however, that nothing contained in this act shall exempt the chiefs of police departments and chiefs of fire departments of municipalities from the competitive classified service as provided in this act [G. C. §§ 486-1 to 486-31].

4. Members of county or district licensing boards or commissions, and boards of revision and assistant assessors.

5. All officers and employes elected or appointed by either or both branches of the general assembly, and such employes of the city council as are engaged in legislative duties.

6. All commissioned, non-commissioned officers and enlisted men in the military service of the state including military appointees in the offices of the adjutant-general.

7. All presidents, directors, superintendents, principals, instructors and teachers connected with the public school system, colleges and universities; and the library staff of any library in the state supported wholly or in part at public expense.

8. Three secretaries, assistants or clerks and one personal stenographer for each of the elective state officers; and two secretaries, assistant or clerks and one personal stenographer for other elective officers and each of the principal appointive executive officers, boards or commissions, except civil service commission, authorized by law to appoint such secretary, assistant or clerk and stenographer.

9. The deputies of elective or principal executive officers authorized by law to act for and in the place of their principals and holding a fiduciary relation to such principals.

10. Bailiffs, constables, official stenographers and commissioners of courts of record, and such officers and employes of courts of record as the commission may find it impracticable to determine their fitness by competitive examination.

11. Assistants to the attorney-general, special counsel appointed or employed by the attorney-general, assistants to county prosecuting attorneys and assistants to city solicitors.

12. Such teachers and employes in the agricultural experiment stations; such teachers in the benevolent, penal or reformatory institutions of the state; such student employes in normal schools, colleges and universities of the state; and such unskilled labor positions as the state commission or any municipal commission may find it impracticable to include in the competitive classified service; provided, that such exemptions shall be, by order of the commission, duly entered on the record of the commission with the reasons for each such exemption.

(b) **Persons in classified service.** The classified service shall comprise all persons in the employ of the state, the several counties, cities and city school districts thereof, not specifically included in the unclassified service, to be designated as the competitive class and the unskilled labor class.

1. The competitive class shall include all positions and employments now existing or hereafter created in the state, the counties, cities and city school districts thereof, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer or reduction, as provided in this act, and the rules of the commission, by appointment from those certified to the appointing officer in accordance with the provisions of this act.

2. The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the commission. The commission shall in its rules require an applicant for registration in the labor class to furnish such evidence or take such tests as it may deem proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity and experience in the work or employment for which he applies. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought and preference shall be given in employment in accordance with the rating received from such evidence or in such tests. Upon the request of an appointing

officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the commission shall certify from the highest on the list, double the number to be employed, from which the appointing officer shall appoint the number actually needed for the particular work. In the event of more than one applicant receiving the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment. (106 v. 404.)

SECTION 486-10. Examinations. Exception as to soldiers and sailors. All applicants for positions and places in the classified service shall be subject to examination which shall be public, competitive and free for all, within certain limitations, to be determined by the commission, as to citizenship, residence, age, sex, experience, health, habits and moral character; provided, however, that any soldier, sailor marine or Red Cross nurse who has served in the army or navy or hospital service of the United States in the war of the Rebellion, the war with Spain, or the war with the Central Powers of Europe who has been honorably discharged therefrom and is a resident of Ohio, may file with the civil service commission a certificate of service and honorable discharge, whereupon his name shall be placed upon an eligible list by the commission, from which eligible list he may be appointed to any position in the civil service of the state which such appointing power may deem him qualified to fill. Such examination shall be practical in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position for which appointment is sought, and shall, when appropriate, include tests of physical qualifications, health and manual skill.

Notice of time and place of examinations. The state commission shall have control of all examinations, except as otherwise provided in this act. No questions in any examinations shall relate to political or religious opinions or affiliations. Reasonable notice of the time and place and general scope of every competitive examination for appointment to a position in the civil service, except as otherwise provided for in this act, shall be given by the commission. Written or printed notices of every examination for the state classified service shall be sent by the commission to the county clerk of each county in the state, and to the city clerk of each municipality of the state, and such notices promptly upon receipt by them, shall be posted in conspicuous public places in the court house of the county and in the city hall of the municipality, respectively. Such notices shall also be posted in a conspicuous place in the office of the commission for at least two weeks before an examination. In case of examinations limited by the commission to a district, county or city, the commission shall provide in its rules for adequate publicity of such examinations in the district, county or city, within which competition is permitted.

SECTION 486-11. Applications; statements required in application. The commission shall require persons applying for admission to any examination, provided for by this act or by the rules of the commission prescribed thereunder to file with the commission within a reasonable

time prior to the proposed examination a formal application in which the applicant shall state under oath or affirmation:

- (1) Full name, residence and postoffice address.
- (2) Nationality, age and place and date of birth.
- (3) Health and physical capacity for the public service sought.
- (4) Business and employments and residences for five previous years.
- (5) Such other information as may be reasonably required touching the applicant's merit and fitness for the public service sought; but no inquiry shall be made as to any religious or political opinions or affiliations of the applicant.

Examination fee. No fee or other assessment shall be charged for examinations for positions provided for by this act or by the rules of the commission prescribed thereunder, where the annual salary does not exceed six hundred dollars; for positions where the annual salary exceeds six hundred dollars and is less than one thousand dollars, an examination fee of fifty cents shall be charged; for positions where the annual salary is one thousand dollars or more, an examination fee of one dollar shall be charged. All fees collected under the provisions of this act shall be paid into the state treasury to the credit of the general revenue fund, or in the case of cities into the city treasury.

Blank forms; grounds for refusal to certify eligible. Blank forms for applications shall be furnished by the commission without charge to any persons requesting the same. The commission may require in connection with such application such certificate of persons having knowledge of the applicant as the good of the service may demand. The commission may refuse to examine an applicant, or after an examination to certify an eligible, who is found to lack any of the established preliminary requirements for the examination or who is physically so disabled as to be rendered unfit for the performance of the duties of the position which he seeks, or who is addicted to the habitual use of intoxicating liquors or drugs to excess, or who has been guilty of any crime or of infamous or notoriously disgraceful conduct, or who has been dismissed from either branch of the civil service for delinquency or misconduct, or who has made false statements of any material fact, or practiced, or attempted to practice, any deception or fraud in his application or in his examination, in establishing his eligibility or securing his appointment.

SECTION 486-12. Eligible lists. From the returns of the examinations the commission shall prepare an eligible list of the persons whose general average standing upon examination for such grade or class is not less than the minimum fixed by the rules of the commission and who are otherwise eligible; and such persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of time of examination. In the event of two or more applicants receiving the same mark in an examination, priority in the time of application shall determine the order in which their names shall be placed on the eligible list. The term of eligibility of each list shall be fixed by the commission at not less than one year nor more than two years. When an eligible list is reduced to three names or less a new list shall be prepared. (106 v. 408.)

SECTION 486-13. Appointments, how made. The head of a department, officer or institution in which a position in the classified service is to be filled shall notify the commission of the fact, and the commission shall, except as provided in sections 486-14 and 486-15 of the General Code, certify to the appointing officer thereof the names and addresses of the three candidates standing highest on the eligible list for the class or grade to which said position belongs. In the event that an eligible list becomes exhausted, through inadvertence or otherwise, and until a new list can be created, or when no eligible list for such position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified. A person certified from an eligible list more than three times to the same appointing officer for the same or similar positions, may be omitted from future certifications to such officer, provided that certification for a temporary appointment shall not be counted as one of such certifications.

Appointments to all positions in the classified service, as herein defined, that are not filled by promotion, transfer or reduction, as provided for in this act and the rules of the commission prescribed thereunder, shall be made only from those persons whose names are certified to the appointing officer in accordance with the provisions of this act [G. C. §§ 486-1 to 486-31], and no employment, except as provided in this act, shall be otherwise given in the classified service of this state or any political subdivision thereof. The appointing officer shall notify the commission of each position to be filled and shall fill such position by appointment of one of the three persons certified to him as provided in this act. Forthwith, upon such appointment and employment, each appointing officer shall report to the proper civil service commission the name of such appointee or employee, the title and character of his office, the duties of same, the date of the commencement of same, and the salary or compensation thereof, and such other information as the commission requires in order to keep the roster herein mentioned. All original and promotional appointments shall be for a probationary period of not to exceed three months to be fixed by the rules of the commission, and no appointment or promotion shall be deemed finally made until the appointee has satisfactorily served his probationary period. At the end of the probationary period the appointing officer shall transmit to the commission a record of the employe's service, and if such service is unsatisfactory, the employe may, with the approval of the commission, be removed or reduced without restriction; but dismissal or reduction may be made during such period as is provided for in section 486-17 and 486-17a of the General Code. Any person who is appointed to a position in the classified service under the provisions of this act, except temporary and exceptional appointments, shall be or become forthwith a resident of the state. (106 v. 408.)

SECTION 486-14. Temporary and exceptional appointments. Positions in the classified service may be filled without competition as follows:

1. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the commission is unable to certify to the appointing officer, upon requisition by the latter, a list of persons eligible for appointment after a competitive examination, the appointing

officer may nominate a person to the commission for non-competitive examination, and if such nominee shall be certified by the commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination; but such provisional appointment shall continue in force only until regular appointment can be made from eligible lists prepared by the commission, and such eligible lists shall be prepared within ninety days thereafter. In case of an emergency an appointment may be made without regard to the rules of this act [G. C. §§ 486-1 to 486-31], but in no case to continue longer than thirty days, and in no case shall successive appointments be made; provided, however, that interim or temporary appointments, made necessary by reason of sickness or disability of regular officers, employes or subordinates shall continue only during such period of sickness or disability, subject to rules to be provided for by the commission.

2. In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the commission may suspend the provisions of the statute requiring competition in such case, but no suspension shall be general in its application to such place, and all such cases of suspension shall be reported in the annual report of the commission with the reasons for the same.

3. Where the services to be rendered by an appointee are for a temporary period, not to exceed one month, and the need of such service is important and urgent, the appointing officer may select for such temporary service any person on the proper list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment; nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position. (106 v. 409.)

SECTION 486-15. Promotions; examinations. Vacancies in positions in the classified service shall be filled in so far as practicable by promotions. The commission shall provide in its rules for keeping a record of efficiency for each employe in the classified service, and for making promotions in the classified service on the basis of merit, to be ascertained as far as practicable by promotional examinations, by conduct and capacity in office, and by seniority in service; and shall provide that vacancies shall be filled by promotion in all cases where, in the judgment of the commission, it shall be for the best interest of the service so to fill such vacancies. All examinations for promotions shall be competitive. In promotional examinations efficiency and seniority in service shall form a part of the maximum mark attainable in such examination. In all cases where vacancies are to be filled by promotion, the commission shall certify to the appointing authority only the name of the person having

the highest rating. The method of examination for promotions, the manner of giving notice thereof, and the rules governing the same shall be in general the same as those provided for original examinations, except as otherwise provided herein.

SECTION 486-16. Transfers and reinstatements. With the consent of the commission, a person holding an office or position in the classified service may be transferred to a similar position in another office, department or institution having the same pay and similar duties; but no transfer shall be made from an office or position in one class to an office or position in another class, nor shall a person be transferred to an office or position for original entrance to which there is required by this act, or the rules adopted pursuant thereto, an examination involving essential tests or qualifications or carrying a salary different from or higher than those required for original entrance to an office or position held by such person.

Any person holding an office or position under the classified service who has been separated from the service without delinquency or misconduct on his part may, with the consent of the commission, be reinstated within one year from the date of such separation to a vacancy in the same or similar office or position in the same department; and whenever any permanent office or position in the classified service is abolished or made unnecessary, the person holding such office or position shall be placed by the commission at the head of an appropriate eligible list, and for a period of not to exceed one year shall be certified to an appointing officer as in the case of original appointments.

SECTION 486-17. Reductions, lay-offs and suspensions. No person shall be reduced in pay or position, laid off, suspended, discharged or otherwise discriminated against by an appointing officer for religious or political reasons or affiliations. In all cases of reduction, lay-off or suspension of an employe or subordinate, whether appointed for a definite term or otherwise, the appointing authority shall furnish such employe or subordinate with a copy of the order of lay-off, reduction or suspension and his reasons for the same, and give such employe or subordinate a reasonable time in which to make and file an explanation. Such order together with the explanation, if any, of the subordinate shall be filed with the commission. Nothing in this act contained shall limit the power of an appointing officer to suspend without pay, for purposes of discipline, an employe or subordinate for a reasonable period, not exceeding thirty days; provided, however, that successive suspensions shall not be allowed, and provided further that the provisions of this section shall not apply to temporary appointments made under the authority of section 486-14 of the General Code.

SECTION 486-17a. Tenure of office. Removals. The tenure of every officer, employe or subordinate in the classified service of the state, the counties, cities and city school districts thereof, holding a position under the provisions of this act, shall be during good behavior and efficient service; but any such officer, employe or subordinate may be removed for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the provisions of this act or the rules of the commission, or

any other failure of good behavior, or any other acts of misfeasance, malfeasance or nonfeasance in office.

In all cases of removal the appointing authority shall furnish such employe or subordinate with a copy of the order of removal and his reasons for the same, and give such officer, employe or subordinate a reasonable time in which to make and file an explanation. Such order with the explanation, if any, of the employe, or subordinate shall be filed with the commission. Any such employe or subordinate so removed may appeal from the decision or order of such appointing authority to the state or municipal commission, as the case may be, within ten days from and after the date of such removal, in which event the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm or modify the judgment of the appointing authority, and the commission's decision shall be final; provided, however, that in the case of the removal of a chief of police or chief of the fire department of a municipality an appeal may be had from the decision of the municipal commission to the court of common pleas of the county in which such municipality is situated to determine the sufficiency of the cause of removal. Such appeal shall be taken within ten days from the finding of the commission.

SECTION 779. Binding. The commissioners of public printing shall provide for the necessary binding of the state in such manner, upon such terms and for such periods as they may deem most advantageous to the state. Before a contract for binding is awarded, the contractor shall execute a bond to the state in the sum of five thousand dollars with two or more sufficient sureties, conditioned for the faithful performance of the work specified in the contract. In the execution of the work of binding and the transportation of sheets, bound copies and documents, the commissioners and the contractors shall be governed so far as practicable by the rules relative to contracts for public printing. (63 v. 190.)

SECTION 780. Binding shall include collating, etc. All printed matter required to be bound in book form shall be bound as required by the commissioners of public printing. Counting, folding, stitching and binding shall include collating, drying and pressing, and no charge shall be made for collating, drying and pressing. (106 v. 508.)

INSPECTION OF PUBLIC BUILDINGS

SECTION 1031. Inspection of all public buildings. The department of industrial relations shall cause to be inspected all school-houses, colleges, opera houses, halls, theaters, churches, infirmaries, children's homes, hospitals, medical institutes, asylums, and other buildings used for the assemblage or betterment of people in the state. Such inspection shall be made with special reference to precautions for the prevention of fires, the provision of fire escapes, exits, emergency exits, hallways, air space, and such other matters which relate to the health and safety of those occupying, or assembled in such structures. (110 v. 280.)

SECTION 1032. Alterations necessary for public safety. Upon inspection of such structure, the inspector shall file with the department of industrial relations a written report of the condition thereof. If it is found that necessary precautions for the prevention of fire or other disaster have not been taken or that means for the safe and speedy egress of persons assembled therein have not been provided, such report shall specify what appliances, additions or alterations are necessary therefor. Thereupon the department of industrial relations shall issue an order in writing stating what necessary appliances, additions or alterations shall be added to or made in such structure and shall send a copy of such order to the owner or persons having control of such structure and thereafter shall publish in some newspaper of general circulation in the neighborhood of such structure, a copy of such order or a brief statement of the contents of such order. If such structure is located in a municipality a copy of such order shall be mailed to the mayor or chief executive thereof, otherwise a copy of such order shall be mailed to the prosecuting attorney of such county. (110 v. 281.)

SECTION 1032-1. Appeal from order of Department of Industrial Relations. Any board of education, board of trustees, board of county commissioners, council of a city or village, city commission, or owner or person having control of such structure, may appeal from such order to the court of common pleas of the county in which such structure is situated, by filing an appeal with the clerk of such court within twenty (20) days after such publication of a copy of such order or such brief statement. The clerk of said court shall forthwith notify the department of the filing of such appeal. The department of industrial relations shall be plaintiff and the appellant shall be defendant. Within twenty (20) days after the filing of such appeal the department of industrial relations shall make a complete transcript of the proceedings had before it and certify the same together with all the original papers filed in its office and transmit them to the clerk of said court. Within ten days after filing such transcript the department of industrial relations shall file a petition in the ordinary form against such appellant as defendant and further pleading shall be had in such case according to the rules of civil procedure. The court shall hear the matter upon such evidence as may be introduced by either party, and determine the right of the appellant. If the court find from the evidence that such order should be set aside, such order shall thereafter be null and void and of no effect. If the court find in favor of such department of industrial relations and that such order should not be set aside, such order shall be continued in full force and effect. So far as consistent with the rights of others such appeal shall by the trial court be given precedence over other matters and the decision of such common pleas court shall be final. 110 v. 281.)

SECTION 1033. Enforcement of order. If no appeal is taken or if the court sustains the order, the mayor or chief executive with the aid of the police or the prosecuting attorney with the aid of the sheriff, as the case may be, shall prevent the use of such structure for public assemblage until the appliances, additions or alterations required by such notice have been added to or made in such structure. (110 v. 282.)

SECTION 1034. Report of compliance with order. Upon receipt of such notice, if no appeal be taken or if the courts shall find in favor of the department of industrial relations the owner or person in control of such structure shall comply with every detail embodied therein, and upon completion thereof report such fact in writing to the department of industrial relations and to such mayor or prosecuting attorney. (110 v. 282.)

SECTION 1035. Plans to be approved by Department of Industrial Relations. The plans for the erection of such structure, and for any alterations in or additions to any such structure, shall be approved by the department of industrial relations, except in municipalities having regularly organized building inspection departments, in which case the plans shall be approved by such department. (110 v. 282.)

SECTION 1036. Penalty for alteration of plans. Whoever, being an architect, builder or other person, alters the plans so approved or fails to construct or alter a building in accordance with such plans without the consent of the department that approved them, or without the court of common pleas finding that such order should be set aside, shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned in the county jail not less than thirty days nor more than one year, or both. (110 v. 282.)

SECTION 1037. Penalty for violation by owner. Whoever, being a person, firm or corporation or member of a board, and being the owner or in control of any building mentioned in section ten hundred and thirty-one of this chapter, uses or permits the use of such building in violation of any order prohibiting its use issued as provided by law, unless the common pleas court has made a finding setting aside such order, or fails to comply with an order so issued relating to the change, improvement or repair of such building, unless the common pleas court shall make a finding setting aside such order, shall be fined not less than ten dollars nor more than one hundred dollars, and each day that such use of failure continues shall constitute a separate offense. (110 v. 282.)

STATE DEPARTMENT OF HEALTH

The State Department of Health issues bulletins relative to public health matters such as Hughes and Griswold health laws, plumbing inspection, maternity hospitals, water supply and sewage disposal. Make direct application to the State Department of Health, Columbus, Ohio.

SECTION 1236 6. Hospitals and dispensaries shall register with and report to state department of health. The commissioner of health shall have power to define and classify hospitals and dispensaries. Within thirty days after the taking effect of this act, and annually thereafter, every hospital and dispensary, public or private, shall register with, and report to, the state department of health, on forms furnished by the commissioner of health, such information as he may prescribe. (108 Pt. I. v. 46.)

SECTION 1237. General powers and duties. The state board of health shall have supervision of all matters relating to the preservation of life and health of the people and have supreme authority in matters

of quarantine, which it may declare and enforce, when none exists, and modify, relax or abolish, when it has been established. It may make special or standing orders or regulations for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of diseased persons, and for such other sanitary matters as it deems best to control by a general rule. It may make and enforce orders in local matters when emergency exists, or when the local board of health has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by law. In such cases the necessary expense incurred shall be paid by the city, village or township for which the services are rendered. (99 v. 493.)

Under this section the state board of health may provide for quarantining persons who have venereal diseases: In re Mason, 22 O. N. P. (N. S.) 21, 30 O. D. (N. P.) 139, 64 Bull, 303.

SECTION 1237-1. State acceptance of provisions of Federal Maternity Act. The state of Ohio through the legislative authority thereof, does hereby accept the provisions of an act of congress entitled "An act for the promotion of the welfare and hygiene of maternity and infancy and for other purposes," approved November twenty-third, one thousand nine hundred and twenty-one, and does hereby designate the state department of health, through its division of child hygiene, as the state agency to co-operate with the children's bureau referred to in said act, and said department of health and the division of child hygiene thereof, shall be vested with all powers necessary for the accomplishment of such purposes. (110 v. 331.)

SECTION 1237-2. Department of Health designated as state agency. The department of health is hereby directed to submit through its division of child hygiene to the federal children's bureau, detailed plans for carrying out the provisions of this act of congress aforesaid, within this state, which plans shall be subject to the approval of the federal board of maternity and child hygiene, provided that the plans submitted shall provide that no official, or agent, or representative, in carrying out the provisions of this act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. (110 v. 332.)

SECTION 1237-3. Treasurer of state to receive funds. The treasurer of the state of Ohio is hereby authorized to receive all funds from the treasury of the United States, granted to the state of Ohio and apportioned for the purposes of said act, and said treasurer of the state of Ohio is hereby authorized and directed to pay over such funds to the state department of health to be expended in accordance with the terms of the aforesaid act of congress. (110 v. 332.)

SECTION 1237-4. Expenditure of fund. Nothing in this act shall be construed as authorizing, or permitting, the expenditure of any public moneys to provide medical or nursing attendance or service. (110 v. 332.)

SECTION 1239. Special duties of the board. The state board of health shall make careful inquiry as to the cause of disease, especially when contagious, infectious, epidemic or endemic, and take prompt action

to control and suppress it. The reports of births and deaths, the sanitary conditions and effects of localities and employments, the personal and business habits of the people and the relation of the diseases of man and beast, shall be subjects of careful study by the board. It may make and execute orders necessary to protect the people against diseases of lower animals, and shall collect and preserve information in respect to such matters and kindred subjects as may be useful in the discharge of its duties, and for dissemination among the people. When called upon by the state or local governments, or municipal or township boards of health it shall promptly investigate and report upon the water supply, sewerage, disposal of excreta of any locality and the heating, plumbing and ventilation of a public building. (99 v. 494.)

SECTION 1239-1. Distribution of antitoxin for cure and prevention of diphtheria. The state board of health shall make necessary arrangements for the production and distribution of diphtheria antitoxin, provided that such antitoxin shall in all respects be equal in purity and potency to the standard of requirements of the United States public health service for antitoxin for interstate commerce. Diphtheria antitoxin shall be distributed in accordance with such rules and regulations as may be adopted by the state board of health. (106 v. 23.)

SECTION 1239-2. Who may receive antitoxin free for treatment. Any licensed physician practicing in the state of Ohio, or the superintendent of any state or county institution, shall be entitled to receive without charge such quantities of antitoxin as he may require for the treatment or prevention of diphtheria in poor or indigent persons, provided that such antitoxin shall be used only for persons residing in the state of Ohio, and that a sufficient supply is available for distribution. (106 v. 23.)

SECTION 1240. Approval of the board required in certain cases. No city, village, public institution, corporation or person shall provide or install for public use a water supply or sewerage system, or purification works for a water supply or sewage, of a municipal corporation or public institution, or make a change in the water supply, water works intake, water purification works of a municipal corporation or public institution, until the plans therefor have been submitted to and approved by the state board of health. No city, village, corporation or person shall establish a garbage disposal or manufacturing plant having a liquid waste which may enter any stream within twenty miles above the intake of a public water supply until the location of such garbage or manufacturing plant, including plans for disposing of such liquid waste, is approved by the state board of health. Whoever violates any provisions of this section shall be fined not less than one hundred nor more than five hundred dollars. (99 v. 494.)

PREVENTION OF INFANTILE BLINDNESS

See Sections 12787; 12789.

SECTION 1248-1. "Inflammation of the eyes of the new born" defined. Any inflammation, swelling or redness in either one or both eyes

of any infant, either apart from or together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring any time within two weeks after the birth of such infant, shall be known as "inflammation of the eyes of the new born." (106 v. 321.)

SECTION 1248-2. Report to state board of health by physician or attendant; fee. It shall be the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature; parent, relative and any persons attendant on or assisting in any way whatsoever, any infant or the mother of any infant at childbirth or any time, within two weeks after childbirth, knowing the condition, hereinabove defined to exist, within six hours thereafter, to report such fact, as the state board of health shall direct, to the local health officer of the city, town, village or whatever other political division there may be, within which the infant or the mother of any such infant may reside. For such services the attending physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital shall receive from the state treasurer a fee of fifty cents. (106 v. 321.)

SECTION 1248-3. Duties of local health officer. It shall be the duty of the local health officer

1. To investigate or to have investigated, each case as filed with him in pursuance with the law, and any other such case as may come to his attention.

2. To report all cases of inflammation of the eyes of the new born and the result of all such investigation as the state board of health shall direct.

3. To conform to such other rules and regulations as the state board of health shall promulgate for his further guidance. (106 v. 321.)

SECTION 1248-4. Duties of state board of health. It shall be the duty of the state board of health:

1. To enforce the provisions of this act.

2. To promulgate such rules and regulations as shall, under this act, be necessary for the purpose of this act, and such as the state board of health may deem necessary for the further and proper guidance of local health officers.

3. To provide for the gratuitous distribution of a scientific prophylactic for inflammation of the eyes of the new born, together with proper directions for the use and administration thereof, to all physicians and midwives as may be engaged in the practice of obstetrics or assisting at childbirth.

4. To provide, if necessary, daily inspection and prompt and gratuitous treatment to any infant whose eyes are infected with inflammation of the eyes, provided further that the state board of health, if necessary, shall defray the expense of such treatment from such sum as may be appropriated for its use.

5. To publish and promulgate such further advice and information concerning the dangers of inflammation of the eyes of the new born, and the necessity for prompt and effective treatment.

6. To furnish copies of this law to all physicians and midwives as may be engaged in the practice of obstetrics or assisting at childbirth.

7. To keep a proper record of any and all cases of inflammation of the eyes of the new born, as shall be filed in the office of the state board of health, in pursuance with this law and as may come to their attention in any way, and to constitute such records a part of the annual report to the governor and the legislature.

8. To report any and all violations of this act as may come to its attention, to the state board of medical registration and examination and also to the local police or county prosecutor in the county wherein said misdemeanor may have been committed, and to assist said official in every way possible, such as by securing necessary evidence. (106 v. 321.)

SECTION 1248-5. Duty of physician or attendant upon case of childbirth. It shall be the duty of the physician, midwives, or other persons in attendance upon a case of childbirth in a maternity home, hospital, public or charitable institution, in every infant immediately after birth, to use some prophylactic against inflammation of the eyes of the new born and to make record of the prophylactic used. It shall also be the duty of such institution to maintain such records of cases of inflammation of the eyes of the new born as the state board of health shall direct. (106 v. 322.)

SECTION 1248-6. Penalty for violation of provisions of this act. It shall be the duty of a midwife in every case of childbirth under her care, immediately after birth, to use such prophylactic against inflammation of the eyes of the new born as the state board of health requires. Whoever being a physician, surgeon, midwife, obstetrician, nurse, manager or person in charge of maternity home or hospital, parent, relative or person attendant upon or assisting at the birth of any infant violates any of the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof be fined in a sum not less than fifty dollars nor more than one hundred dollars and for each second or subsequent offense shall be fined not less than one hundred dollars nor more than three hundred dollars. It shall be the duty of the prosecuting attorney to prosecute all violations of this act. (106 v. 322.)

SECTION 1261-26. Duties of district board of health relative to public institutions. In addition to the duties now required of boards of health, it shall be the duty of each district board of health to study and record the prevalence of disease within its district and provide for the prompt diagnosis and control of communicable diseases. The district board of health may also provide for the medical and dental supervision of school children, for the free treatment of cases of venereal diseases, for the inspection of schools, public institutions, jails, workhouses, children's homes, infirmaries, and other charitable, benevolent, correctional institutions. The district board of health may also provide for the inspection of dairies, stores, restaurants, hotels and other places where food is manufactured, handled, stored, sold or offered for sale, and for the medical inspection of persons employed therein. The district board of health may also provide for the inspection and abatement of nuisances

dangerous to public health or comfort, and may take such steps as are necessary to protect the public health and to prevent disease.

Provided that in the medical supervision of school children as herein provided, no medical or surgical treatment shall be administered to any minor school child except upon the written request of a parent or guardian of such child; and provided further, that any information regarding any diseased condition or defect found as a result of any medical school examination shall be communicated only to the parent or guardian of such child and if in writing shall be in a sealed envelope addressed to such parent or guardian. (108 v. Pt. I. 240.) (108 v. Pt. II. 1088.)

DIVISION CHARITIES OF STATE DEPARTMENT OF PUBLIC WELFARE

(Section 154-47 provides that the Department of Public Welfare, through the Division of Charities, shall have all powers and duties vested in or imposed upon the former Board of State Charities.)

SECTION 1352. Duties of the board. Employment of visitors. The board of state charities shall investigate by correspondence and inspection the system, condition and management of the public and private benevolent and correctional institutions of the state and county, and municipal jails, workhouses, infirmaries and children's homes, as well as all institutions whether incorporated, private or otherwise which receive and care for children. Officers in charge of such institutions or responsible for the administration of public funds used for the relief and maintenance of the poor shall furnish the board or its secretary such information as it requires. The board may prescribe such forms of report and registration as it deems necessary. For the purpose of such investigation and to carry out the provisions of this chapter it shall employ such visitors as may be necessary, who shall, in addition to other duties, investigate the care and disposition of children made by institutions for receiving children, and by all institutions including within their objects the placing of children in private homes and, when they deem it desirable they shall visit such children in such homes, and report the result of such inspection to the board. The members of the board and such of its executive force as it shall designate may attend state and national conferences for the discussion of questions, pertinent to their duties. The actual traveling expenses so incurred by the members and such of its executive force as it shall designate shall be paid as provided by section 1351. of the General Code. (108 v. Pt. I, 46.)

SECTION 1352-1. Annual examination of institutions; certificate. List of certified institutions furnished juvenile courts. Such board shall annually pass upon the fitness of every benevolent or correctional institution, corporation and association, public, semi-public or private as receives, or desires to receive, and care for children, or places children in private homes. Annually at such times as the board shall direct, each such institution, corporation or association, shall make a report, showing its condition, management and competency, adequately to care for such children as are, or may be committed to it or admitted therein, the sys-

tem of visitation employed for children placed in private homes, and such other facts as the board requires. When the board is satisfied as to the care given such children, and that the requirements of the statutes covering the management of such institutions are being complied with, it shall issue to the association a certificate to that effect, which shall continue in force for one year, unless sooner revoked by the board. No child shall be committed by the juvenile court to an association or institution which has not such certificate unrevoked and received within fifteen months next preceding the commitment. A list of such certified institutions shall be sent by the board of state charities, at least annually, to all courts acting as juvenile courts and to all associations and institutions so approved. Any person who receives children or receives or solicits money on behalf of such an institution, corporation or association, not so certified, or whose certificate has been revoked, shall be guilty of a misdemeanor, and fined not less than \$5.00 nor more than \$500.00. (108 v. Pt. I, 46.)

SECTION 1352-2. Certificate required before filing articles of incorporation. No association whose object may embrace the care of dependent, neglected or delinquent children or the placing of such children in private homes shall hereafter be incorporated unless the proposed articles of incorporation shall have been submitted first to the board of state charities. The secretary of state shall not issue a certificate of incorporation unless there shall first be filed in his office a certificate of the board of state charities that it has examined the articles of incorporation, and that in its judgment the incorporators are reputable and respectable persons, and that, the proposed work is needed, and the incorporation of such association is desirable and for the public good. Amendments proposed to the articles of incorporation of any such association shall be submitted in like manner to the board of state charities, and the secretary of state shall not record such amendment or issue his certificate therefor unless there shall first be filed in his office the certificate of the board of state charities that it has examined such amendment, that the association in question is, in its judgment, performing in good faith, the work undertaken by it, and that such amendment is, in its judgment, a proper one, and for the public good. (103 v. 866.)

SECTION 1352-3. Who may be received; transferred. Placing wards in suitable homes. Guardianship retained. The board of state charities shall, when able to do so, receive as its wards such dependent or neglected minors as may be committed to it by the juvenile court. County, district, or semi-public children's homes or any institution entitled to receive children from the juvenile court or the board of administration may, with the consent of the board, transfer to it the guardianship of minor wards of such institutions or board. If such children have been committed to such institutions or to the board of administration by the juvenile court that court must first consent to such transfer. The board shall thereupon ipso facto become vested with the sole and exclusive guardianship of such child or children. The board shall, by its visitors, seek out suitable, permanent homes in private families for such wards; in each case making in advance careful investigation of the character and fitness of such home for the purpose. Such children may then be placed in such investi-

gated homes upon trial, or upon such contract as the board may deem to be for the best interests of the child, or proceedings may be had, as provided by law, for the adoption of the child by suitable persons. The board shall retain the guardianship of a child so placed upon trial or contract during its minority, and may at any time, if it deem it for the best interest of the child, cancel such contract and remove the child from such home. The board, by its visitors, shall visit at least twice a year all the homes in which children have been placed by it. Children for whom on account of some physical or mental defect it is impracticable to find good, free homes may be so placed by the board upon agreement to pay reasonable board therefor. The board shall provide needed clothing and personal necessities for such children. When necessary any children so committed or transferred to the board may be maintained by it in a suitable place until a proper home is found. So far as practicable children shall be placed in homes of the same religious belief as that held by their parents. The traveling expenses in connection with the placing of such children in homes, the amount of board, if any, and expenses for clothing and personal necessities and for mental, dental and optical examination and treatment shall be paid out of funds appropriated to the use of the board by the general assembly. (108 Pt. I. v. 1158.)

SECTION 1352-4. Expenses paid to the board; by the county. The actual traveling expenses of any dependent, neglected, crippled or delinquent child and of the agents and visitors of said board shall be paid from funds appropriated to said board, but the amount of board, if any, paid for the care of such child and the expense for providing suitable clothing and personal necessities, mental, medical, surgical, dental and optical examination and treatment, including massaging and other beneficial treatment and braces, artificial limbs and accessories and their upkeep and for the education when necessary of a crippled child, shall be charged by the board of state charities to the county from which such child was committed or transferred as provided in sections 1352-3, 1352-5 and 1352-8. The treasurer of each county, upon the warrant of the county auditor, shall pay to the treasurer of state the amount so charged upon the presentation of a statement thereof. The sum so received by the treasurer of state shall be credited to the fund appropriated for the purpose of maintaining the child placing work of the board. (109 v. 362.)

SECTION 1352-5. Delinquent children may be received. Board and maintenance. The board of state charities may, when willing to do so, receive as its wards with all the powers given it by section 1352-3 of the General Code delinquent children committed to it by a juvenile court or from any institution to which such children may be committed by the juvenile court or assigned by the board of administration. Such children shall be placed by it in homes in accordance with the provisions of section 1352-3 of the General Code. Before making such commitment the court may make an order that the parent or parents of such child shall pay the board of state charities, periodically, reasonable sums for the maintenance of such child, which orders, upon the disobedience thereof, may be enforced by attachment as for contempt. If originally committed to such institution by the juvenile court, the court must first consent to

the transfer of such child to the board of state charities. Said court may in such cases make an order that the parents or guardians pay for its maintenance in the same manner as if such child had been originally committed to said board.

Provided that if the board of state charities find it impracticable to so place such child, it shall at its discretion have the right to surrender such child to the court, institution or board of administration from which it was received. (108 v. Pt. II, 1159.)

SECTION 1352-6. Definition of "institution." For the purpose of this chapter the words "institution" and "association" shall include any incorporated or unincorporated organization, society, association or agency, public or private, which may receive or care for children; any individual who, for hire, gain, or reward, receives or cares for children, unless he is related to them by blood or marriage; and also any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 1352-1, who in any manner becomes a party to the placing of children in foster homes, unless he is related to such children by blood or marriage, or is the duly appointed guardian thereof. (108 v. Pt. II, 1167.)

SECTION 1352-7. Use of money received for board. Whenever the board of state charities receives moneys for board from an individual liable therefor under sections 1352-5 and 1653 of the General Code the same shall be paid to the treasurer of state and credited to the fund appropriated for the purpose of maintaining the child placing work of the board. (108 v. Pt. II, 1159.)

SECTION 1352-8. Treatment for crippled children; application to juvenile court. In order to provide suitable medical and surgical treatment, and education when necessary, of crippled children whose parents or guardians fail or are financially unable to provide such treatment, the board of state charities is authorized and empowered to receive into its custody such children. Application for such care, treatment, and education, shall first be made to the juvenile court by a parent, guardian or some interested person. If such court is of the opinion that such child is in need of treatment and education, and finds that the parent or guardian fails to provide it, he may make an order to that end; or if the parent or guardian is financially unable to pay all or a part of the expense of such treatment, the court shall make a proper finding and decree. In either case the court shall at once forward a copy of the decree and a statement of facts to the board of state charities, and such board shall, when able to do so under this act, accept such child for care as hereinbefore provided. Upon receipt of notice from such board that such child can be given suitable treatment the court shall then commit such child to such board and provide for its conveyance in charge of a suitable person to the place designated by such board for treatment. The expenses for conveyance shall be paid by the county or by the parent or guardian as the court may direct. Such commitment shall be temporary and shall be only for the period necessary for the treatment of such child. (109 v. 362.)

SECTION 1352-9. Expenses of keep and treatment, how paid. The board of state charities shall arrange for the treatment and education of

crippled children committed to it by the juvenile court. The expenses for board, clothing and personal necessities and for mental, medical, surgical, dental, and optical examination and treatment, including massaging and other beneficial treatment and braces, artificial limbs and accessories and their upkeep, and for education when necessary shall be paid out of funds appropriated to the use of the board of state charities by the general assembly; but the board of state charities may require parents or guardians to pay the state for such expenses when in its judgment such action is just. Such board shall exercise close supervisoion over such crippled children while patients in such hospitals and may at any time terminate any contract so made when in its judgment such action should be taken.

Supervision of children by board; visits; reports. Each child shall be visited as frequently as necessary and proper by a representative of such board who shall prepare and present to the board a written report concerning the progress of such patient. (109 v. 362.)

SECTION 1352-10. When child may be discharged or released. Whenever it appears that a crippled child has been successfully treated, or that it cannot be further benefited by such treatment, the board shall order its discharge and thereupon its guardianship and responsibility shall cease. After such a child has been in the care of the board of state charities in accordance with this act for more than one year the parent or guardian, with the approval of the juvenile court, may cause its release from the supervision of the board of state charities. (109 v. 363.)

SECTION 1352-11. Termination of contracts. After the Ohio institution for the treatment and education of deformed and crippled children is established and ready for the treatment of such children the board of state charities may terminate all contracts made under this act and transfer such children under its care to such institution, unless such institution cannot care for all such children who are eligible for admission. (108 v. Pt. I, 136.)

SECTION 1352-12. Placing of child in institution or family home. The parents, parent, guardian or other person or persons having the custody of a child, may enter into an agreement with any public, semi-public or private association or institution of this state established for the purposes of aiding, caring for or placing children in homes, and which has been approved and certified by the division of charities, department of public welfare, placing such child in the temporary custody of such institution or association; or such parent, guardian or other person may make an agreement surrendering such child into the permanent custody of such association or institution, to be taken and cared for by such association or institution, or placed in a family home. Such agreements provided for herein shall be in writing, on forms prescribed and furnished by the division of charities, department of public welfare and man contain any and all proper and legal stipulations for proper care of the child, and may authorize the association or institution when such agreements are for permanent care and custody to appear in any proceeding, for the legal adoption of such child, and consent to its adoption, as provided in section 8025 of the General Code. The adoption order of the judge made upon such consent shall be binding upon the child and its

parents, guardian, or other person, as if such persons were personally in court and consented thereto, whether made party to the proceeding or not. (110 v. 265.)

SECTION 1352-13. Child placing institutions to be approved by Division of Charities. No child under two years of age shall be given into the temporary or permanent custody of any person, association or institution which is not certified by the division of charities, department of public welfare, as provided in sections 1352-1 and 1352-6 of the General Code, without the written consent of the division of charities or by a commitment of a juvenile court. Provided such child may be placed temporarily without such written consent or court commitment with persons related by blood or marriage, or in a legally licensed boarding home which is not established for the purpose of placing children in free foster homes or for legal adoption. Persons, associations and institutions duly certified and licensed under sections 1352-1 and 1352-6 for the purpose of placing children in free foster homes or for legal adoption, shall keep a record of such temporary and permanent surrenders of children under two years of age. This record shall be available for separate statistics, which shall include a copy of an official birth certificate and all information concerning the social, mental and medical history of such children which will aid in an intelligent disposition of them in case that becomes necessary because the parents or guardians fail or are unable to reassume custody. No child placed on a temporary surrender with an association or institution shall be placed in a free foster home or for legal adoption, and all such surrendered children who are placed in foster homes or for adoption must have been permanently surrendered and a copy of such permanent surrender must be a part of the separate record kept by the association or institution. (110 v. 266.)

SECTION 1352-14. Advertise for adoption of children. It shall be unlawful for any persons, organizations, hospitals or associations which have not been approved and certified by the division of charities, department of public welfare, to advertise that they will adopt children or place them in foster homes, or hold out inducements to parents to part with their offspring, or in any manner knowingly become a party to the separation of a child from its parent, parents or guardians, except through a juvenile court commitment. (110 v. 266.)

SECTION 1353. Plans for public buildings must be submitted to the board. Before their adoption by the proper officials, plans for new jails, workhouses, children's homes, infirmaries, state institutions and municipal lock-ups or prisons and for important additions to or alterations in such existing institutions, shall be submitted to the board of state charities for its approval. (93 v. 105.)

SECTION 1354. Governor may order investigation. The governor, at any time, may order the board of state charities, or a committee of two members thereof to investigate the management of a benevolent or correctional institution of the state. In making such investigation the board, or its committee, shall have such authority as is conferred upon officers authorized to take depositions, to send for persons and papers, to administer oaths, and to punish as for contempt a person, who being duly summoned by it, refuses to appear or produce papers. A report of an in-

vestigation with the testimony taken therein, shall be made to the governor, and by him it may be submitted to the general assembly with such suggestions as he deems proper. (103 v. 868.)

SECTION 1355. Expenses of investigation and witness fees. A person summoned to appear in the investigation, provided in the preceding section, other than officers and employes of the benevolent or correctional institution under examination, shall receive such fees and mileage as are allowed witnesses in the court of common pleas. The witness fees, mileage and expenses of an investigation shall be paid from the current expense fund of such institution upon an itemized account approved by the president and secretary of the board of state charities. (Codifying Commission, Feb. 14, 1910.)

SECTION 1356. Conferences of board with other officials. The board of state charities may call an annual conference, of the officials specified in section 1357 and representatives of the various social agencies in the state, to be known as the Ohio welfare conference. The purpose of the conference shall be to facilitate discussion of the problems and methods of practical human improvement, to increase the efficiency of agencies and institutions devoted to this cause; to disseminate information and to consider such other subjects of general social importance as may be determined upon by the conference itself. For this purpose the conference shall organize by the election of officers, the appointment of the proper committees, and the adoption of rules and regulations. The board may also call other conferences at any time or place for the consideration of problems relating to any particular group of institutions and agencies. (108 v. Pt. I, 427.)

SECTION 1357. Expenses of officers and employes attending conferences. The necessary expenses of such officers of the state, county and municipal boards, benevolent and correctional institutions, and officials responsible for the administration of public funds used for the relief and maintenance of the poor and members of boards of county visitors as are invited by the board of state charities to the conferences provided for in section 1356 shall be paid from any fund available for their respective boards and institutions, provided they first procure a certificate from the secretary of the board of state charities as evidence that they were invited to and were in attendance at the sessions of such conferences. (109 v. 54.)

SECTION 1358. Annual report. The annual report of the board of state charities shall include a list of the officers and agents employed, and the condition of the state institutions under its control. It may include in such reports statistics and information in regard to correctional and benevolent institutions of this or other states as it deems useful. (106 v. 512.)

SECTION 1359. Appointment of special agent or investigator authorized; credentials. The board of state charities is hereby empowered to appoint and commission any competent agency or person, willing to do so without compensation, as a special agent, investigator or representative to perform a designated duty for and in behalf of such board. Specific credentials shall be given by such board to each person so designated, and each credential shall state the name; agency with which connected,

if any; purpose of appointment; date of expiration of appointment, and such other information as such board may deem proper. (108 v. Pt. I, 615.)

OHIO COMMISSION FOR THE BLIND

(See Sec. 154-58 G. C.)

SECTION 1360. Ohio commission for the blind, appointment and term of members. There shall be a state board to be known as the Ohio commission for the blind, consisting of six members, one of whom shall be superintendent of the state school for the blind and five shall be appointed by the governor. Each year the governor shall appoint a member of the commission who shall hold office for a term of five years. (99 v. 362.)

SECTION 1361. Organization and compensation of appointees. The commission for the blind shall elect one of its members as president, who shall preside at its meetings and have power to call meetings when he deems it is advisable. The commission may appoint necessary officers and agents and fix their compensation within the limits of the annual appropriation, but no person so appointed shall be a member of the commission. The commission may make its own by-laws. (99 v. 362.)

SECTION 1362. Expenses of commission. The members of the commission for the blind shall receive no compensation for their services, but their traveling and other necessary expenses incurred in the performance of their official duties, when approved by the president of the commission, shall be paid by the state upon the order of the auditor of state. (99 v. 364.)

SECTION 1363. Object of commission. The commission for the blind shall act as a bureau of information and industrial aid, the object of which shall be to assist the blind in finding employment and to teach them industries which may be followed in their homes. (99 v. 363.)

SECTION 1364. Duties of commission. It shall be the duty of the commission for the blind to prepare and maintain a complete register of the blind in the state which shall describe the condition, cause of blindness, capacity for educational and industrial training of each, and such other facts as the commission deems of value. (99 v. 363.)

SECTION 1365. Visits to aged or helpless blind. The commission for the blind may ameliorate the condition of the aged or helpless blind by promoting visits to them in their homes for the purpose of instruction and by such other lawful method as the commission deems expedient. (99 v. 363.)

SECTION 1366. Schools and workshops. The commission for the blind may establish, equip and maintain schools for industrial training and workshops for the employment of suitable blind persons, pay the employes suitable wages and devise means for the sale and distribution of the products thereof. The commission may also provide or pay for during their training the temporary lodging and support of pupils or workmen received at any industrial schools or workshops established by it. (99 v. 363.)

SECTION 1367. Prevention of blindness. The commission for the blind shall make inquiries concerning the cause of blindness to ascertain what portion of such cases are preventable and co-operate with the state board of health in the adoption and enforcement of proper preventive measures. (99 v. 363.)

SECTION 1368. Use of receipts and earnings. In furtherance of the purposes of this chapter, the commission for the blind shall have authority to use any receipts or earnings that accrue from the operation of industrial schools and workshops as provided in this chapter, but a detailed statement of receipts or earnings and expenditures shall be made monthly to the auditor of state. (99 v. 364.)

SECTION 1369. Annual report. The commissioners for the blind shall make an annual report to the governor of its proceedings for each fiscal year. It shall embody therein a properly classified and tabulated statement of its estimates for the ensuing year with its own opinion as to the necessity or expediency of appropriation in accordance with such estimates. Such annual report shall also present a concise review of the work of the commission for the preceding year with such suggestions and recommendations for improving the condition of the blind as may be expedient. (101 v. 347.)

JUVENILE COURT

SECTION 1639. What courts shall have power and jurisdiction. "Juvenile Court" defined. Courts of common pleas, probate courts, and insolvency courts and superior courts, where established shall have and exercise, concurrently, the powers and jurisdiction conferred in this chapter. The judges of such courts in each county, at such times as they determine, shall designate one of their number to transact the business arising under such jurisdiction. When the term of the judge so designated expires, or his office terminates, another designation shall be made in like manner. In case of the temporary absence or disability of the judge so designated another designation shall be made in like manner to cover the period of such absence or disability.

The words, juvenile court, when used in the statutes of Ohio shall be understood as meaning the court in which the judge so designated may be sitting while exercising such jurisdiction, and the words "judge of the juvenile court" or "juvenile judge" as meaning such judge while exercising such jurisdiction.

The foregoing provisions shall not apply to Hamilton county, in which county the powers and jurisdiction conferred in this chapter shall be exercised by the court of common pleas, and in 1914 and every sixth year thereafter, one of the common pleas judges to be elected at said times shall be elected as a judge of the court of common pleas, division of domestic relations. To him shall be assigned all juvenile court work arising under this chapter, and all divorce and alimony cases, and whenever said judge of the court of common pleas, division of domestic relations, shall be sick, absent or unable to perform his duties, the presiding

judge of the common pleas court shall assign another common pleas judge to perform his duties during his illness, absence or indisposition. (108 v. Pt. II, 1130.)

SECTION 1640. Seal. The seal of the court, the judge of which is designated to transact such business, shall be attached to all writs and processes. (99 v. 192.)

SECTION 1641. Appearance docket and journal. The clerk of the court of the judge exercising the jurisdiction shall keep an appearance docket and a journal, in the former of which shall be entered the style of the case and a minute of each proceeding and in the latter of which shall be entered all orders, judgments and findings of the court. (99 v. 192.)

SECTION 1642. Jurisdiction. Such courts of common pleas, probate courts, insolvency courts and superior courts within the provisions of this chapter shall have jurisdiction over and with respect to delinquent, neglected and dependent minors, under the age of eighteen years, not inmates of a state institution, or any institution incorporated under the laws of the state for the care and correction of delinquent, neglected and dependent children, and their parents, guardians, or any person, persons, corporation or agent of a corporation, responsible for, or guilty of causing, encouraging, aiding, abetting or contributing toward the delinquency, neglect or dependency of such minor, and such courts shall have jurisdiction to hear and determine any charge or prosecution against any person, persons, corporations, or their agents, for the commission of any misdemeanor involving the care, protection, education or comfort of any such minor under the age of eighteen years. (103 v. 868.)

SECTION 1642-1. In any case where the custody and support of a minor child or children has been determined and decreed by the common pleas court, or a probate court having jurisdiction, and such case has been certified to the juvenile court as provided in section 8034-1 the juvenile court shall have jurisdiction to proceed therein as in original cases. (110 v. 127.)

SECTION 1643. When jurisdiction terminates. When a child under the age of eighteen years comes into the custody of the court under the provisions of this chapter, such child shall continue for all necessary purposes of discipline and protection, a ward of the court, until he or she attain the age of twenty-one years. The power of the court over such child shall continue until the child attains such age. Provided, in case such child is committed to the permanent care and guardianship of the Ohio board of administration, or the board of state charities, or of an institution or association, certified by the board of state charities, with permission and power to place such child in a foster home, with the probability of adoption, such jurisdiction shall cease at the time of commitment.

When writ of habeas corpus may issue. No court shall issue a writ of habeas corpus against any parties holding a child by reason of commitment of the juvenile court before such parties have been heard by the court to which application has been made for such writ and their rights to hold such child have been finally determined by the proper court. (108, Pt. I, v. 260.)

SECTION 1644. Delinquent child defined. For the purpose of this chapter, the words "delinquent child" includes any child under eighteen years of age who violates a law of this state, or a city or village ordinance, or who is incorrigible; or who knowingly associates with thieves, vicious or immoral persons; or who is growing up in idleness or crime; or who knowingly visits or enters a house of ill repute; or who knowingly patronizes or visits a policy shop or place where any gambling device or gambling scheme is, or shall be, operated or conducted; or who patronizes or visits a saloon or dram shop where intoxicating liquors are sold; or who patronizes or visits a public pool or billiard room or bucket shop; or who wanders about the streets in the night time; or who wanders about railroad yards or tracks, or jumps or catches on to a moving train, traction or street car, or enters a car or engine without lawful authority, or who uses vile, obscene, vulgar, profane or indecent language; or who is guilty of immoral conduct; or who uses cigarettes, cigarette wrapper or substitute for either, or cigars, or tobacco; or visits or frequents any theater, gallery, penny arcade or moving picture show where lewd, vulgar or indecent pictures, exhibitions or performances are displayed, exhibited or given, or who is an habitual truant; or who uses any injurious or narcotic drug. A child committing any of the acts herein mentioned shall be deemed a juvenile delinquent person, and be proceeded against in the manner hereinafter provided. (106 v. 458.)

SECTION 1645. Dependent child defined. For the purpose of this chapter, the words "dependent child" shall mean any child under eighteen years of age who is dependent upon the public for support; or who is destitute, homeless or abandoned; or who has not proper parental care or guardianship, or who begs or receives alms; or who is given away or disposed of in any employment, service, exhibition, occupation or vocation contrary to any law of the state; who is found living in a house of ill fame, or with any vicious or disreputable persons or whose home, by reason of neglect, cruelty or depravity on the part of its parent, step-parent, guardian or other person in whose care it may be, is an unfit place for such child; or who is prevented from receiving proper education or proper physical, mental, medical or surgical examination and treatment because of the conduct, inability or neglect of its parents, step-parent, guardian or other person in whose care it may be; or whose condition or environment is such as to warrant the state, in the interest of the child, in assuming its guardianship. (109 v. 361.)

SECTION 1646. A child within the provisions of this chapter whose parents, step-parents or guardian permits it to use or become addicted to the use of tobacco, or intoxicating liquors as a beverage and not for medicinal purposes, or any injurious or narcotic drug, or whose parents or guardian rears, keeps or permits it in a gambling house or place where gambling is practiced or carried on, or a house of ill fame, or ill repute, shall be deemed to be without proper parental care or guardianship. The word "child" or "children" may mean one or more children and includes males and females, legitimates and illegitimates. The word "parent" may mean one or both parents or step-parents when consistent with the intent of this chapter. The word "minor" means child, as defined in this section. (110 v. 296.)

SECTION 1647. Who may file complaint. Any person having knowledge of a minor under the age of eighteen years who appears to be either a delinquent, neglected or dependent child, may file with such juvenile court a complaint, sworn to, which may be upon information and belief, and for that purpose such complaint shall be sufficiently definite by using the word delinquent, or dependent, as the facts may be. (103 v. 870.)

SECTION 1648. Caution, warrant, contempt. Upon filing of the complaint, a citation shall issue, requiring such minor to appear, and the parents or guardian or other person, if any, having custody or control of the child, or with whom it may be, to appear with the minor at a time and place to be stated in the citation; or the judge may in the first instance, issue a warrant for the arrest of such minor or for any person named in the complaint and charged therein with having abused or abandoned, or charged therein with neglect of or being responsible for or having encouraged, aided or abetted the delinquency or dependency of such child, or having acted in a way tending to cause delinquency in such child. A parent, step parent, guardian or other person not cited may be subpoenaed to appear and testify at the hearing. Any one cited or subpoenaed to appear who fails to do so, may be punished as in other cases in the common pleas court for contempt of court. Whenever it shall appear from affidavit that a parent or guardian or other person having the custody of such child resides or has gone out of the state or that his or her place of residence is unknown so that such citation cannot be served on him or her, the clerk shall cause such citation to be published once in a newspaper of general circulation throughout the county, and published in the county, if there be one so published. The citation shall state the nature of the complaint, and the time and place of the hearing, which shall be held at least two weeks later than the date of the publication; and a copy of such citation shall be sent by mail to the last known address of such parent, guardian or other person having custody of such child, unless said affidavit, shows that a reasonable effort has been made without success to ascertain such address. The certificate of the clerk that such publication has been made or such citation mailed shall be sufficient evidence thereof. Until the time for the hearing arrives, the court shall make such temporary disposition of such child as it may deem best. When said period of two weeks from the time of publication shall have elapsed, said court shall have full jurisdiction to deal with such child as provided by this chapter. When a person charged with violating a provision of this chapter shall have fled from justice in this state, such judge shall have all the powers of a magistrate under the laws of this state relating to fugitives from justice. (103 v. 870.)

SECTION 1648-1. Provision to avoid incarceration. In any case where a child under the age of eighteen years is arrested with or without a warrant, in order to avoid the incarceration of such child, if practicable, the officer so arresting, unless otherwise ordered by the court, shall accept the written promise of the parent, guardian or other person with whom such child resides, or any other reputable person, to be responsible for the presence of said child in the proper court at the time and place when such child is to appear, and at any other time to which the hearing in the case may be continued or adjourned by the court.

Nothing herein contained shall be construed to prevent the admitting of such child to bail, in accordance with the general provisions of the crimes act. (103 v. 871.)

SECTION 1649. Special room for juvenile court. The county commissioners shall provide a special room not used for the trial of criminal cases, when avoidable, for the hearing of juvenile cases. (99 v. 194.)

SECTION 1650. Hearing. On the day named in the citation or upon the return of the warrant of arrest, or as soon thereafter as may be, the judge shall proceed, in a summary manner to hear and dispose of the case, and the person arrested or cited to appear may be punished in the manner hereafter provided. (99 v. 194.)

SECTION 1651. Jury trials; costs. Any person charged with violating any of the provisions of this chapter or being responsible for or with causing, aiding or contributing to the delinquency, dependency or neglect of a child, or with acting in a way tending to cause delinquency in a child, arrested or cited to appear before such court, at any time before hearing, may demand a trial by jury, or the judge upon his own motion may call a jury. The statutes relating to the drawing and impaneling of jurors in criminal cases in the court of common pleas, other than in capital cases, shall apply to such jury trial. The compensation of jurors and costs of the clerk and sheriff shall be taxed and paid as in criminal cases in the court of common pleas. (99 v. 194.)

A jury may be waived by a defendant in the juvenile court, and where he elects so to do it is not necessary that the waiver be in writing: *Walton vs. State*, 3 Ohio App. 97, 19 O. C. C. (N. S.) 452.

SECTION 1652. Commitment. In case of a delinquent child the judge may continue the hearing from time to time and may commit the child to the care or custody of a probation officer, and may allow such child to remain at its own home, subject to the visitation of the probation officer or otherwise, as the court may direct, and subject to be returned to the judge for further or other proceedings whenever such action may appear to be necessary; or the judge may cause the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer, and the further order of the judge, or he may authorize the child to be boarded in some suitable family home in case provision be made by voluntary contribution or otherwise for the payment of the board of such child, until suitable provision be made for it in a home without such payment; or the judge may commit such child, if a boy, to a training school for boys, or, if a girl, to an industrial school for girls, or commit the child to **any** institution within the county that may care for delinquent children, or be provided by a city or county suitable for the care of such children. In no case shall a child, committed to such institutions, be confined under such commitment after attaining the age of twenty-one years; or the judge may commit the child to the care and custody of an association that will receive it, embracing in its objects, the care of neglected or dependent children, if duly approved by the board of state charities, as provided by law. Where it appears at the hearing of a male delinquent child, that he is 16 years of age, or over, and has committed a

felony, the juvenile court may commit such child to the Ohio state reformatory. (103 v. 871.)

SECTION 1652-1. Examination by competent physician; record sent with commitment. Any child coming within the provisions of this chapter may be subjected to a physical and mental examination by a competent physician or physicians, to be appointed by the Juvenile Court. Whenever any such child is committed to any institution by virtue of the provision of this chapter, a record of such examination or examinations shall be sent with the commitment to such institution. The Juvenile Court shall tax as part of the costs, a reasonable fee for such examination. (109 v. 523.)

SECTION 1653. Commitment to institution or suitable person. When a minor under the age of eighteen years, or any ward of the court under this chapter, is found to be dependent or neglected, the judge may make an order committing such child to the care of the children's home if there be one in the county where such court is held, if not, to such a home in another county, if willing to receive such child, for which the county commissioners of the county in which it has a settlement, shall pay reasonable board; or he may commit such child to the board of state charities or to some suitable state or county institution, or to the care of some reputable citizen of good moral character, or to the care of some training school or an industrial school, as provided by law, or to the care of some association willing to receive it, which embraces within its objects the purposes of caring for or obtaining homes for dependent, neglected or delinquent children or any of them, and which has been approved by the board of state charities as provided by law. When the health or condition of the child shall require it, the judge may cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge. The court may make an examination regarding the income of the parents or guardian of a minor committed as provided by this section and may then order such parent or guardian pay the institution or board to which the minor has been committed reasonable board for such minor, which order, if disobeyed, may be enforced by attachment as for contempt. (103 v. 872.)

SECTION 1653-1. Age limitations. The provisions of section 1652 shall not apply to the girls' industrial school or the boys' industrial school, so far as the same allows the commitment of a child under ten years or over eighteen years of age to such institution. In no case shall a child found to be a dependent or neglected child be committed to such institution, nor shall any child under ten years or over eighteen years of age, be committed to such schools except as provided in section 2111 of the General Code. (103 v. 873.)

SECTION 1654. Penalty for abuse or aiding and abetting delinquency. Whoever abuses a child or aids, abets, induces, causes, encourages or contributes toward the dependency, neglect or delinquency, as herein defined, of a minor under the age of eighteen years, or acts in a way tending to cause delinquency in such minor, shall be fined not less than ten dollars, nor more than one thousand dollars or imprisoned not

less than ten days nor more than one year, or both. Each day of such contribution to such dependency, neglect or delinquency, shall be deemed a separate offense. If in his judgment it is for the best interest of a delinquent minor, under the age of eighteen years, the judge may impose a fine upon such delinquent not exceeding ten dollars, and he may order such person to stand committed until fine and costs are paid. (103 v. 873.)

SECTION 1655. Neglect or non-support of minor. Whoever is charged by law with the care, support, maintenance or education of a minor under the age of eighteen years, and is able to support or contribute toward the support or education of such minor, fails, neglects, or refuses so to do, or who abandons such minor, or who unlawfully beats, injures, or otherwise ill treats such minor, or causes or allows him or her to engage in common begging, or whoever, being the father of an illegitimate child under the age of sixteen years and able to support or contribute toward the support of such child, fails, neglects or refuses so to do, upon complaint filed in the juvenile court, as provided in this chapter, shall be fined not less than ten dollars, nor more than five hundred dollars, or imprisoned not less than ten days nor more than one year, or both. Such neglect, non-support, or abandonment shall be deemed to have been committed in the county in which such minor may be at the time of such neglect, non-support, or abandonment. Each day of such failure, neglect, or refusal shall constitute a separate offense, and the judge may order that such person stand committed until such fines and costs are paid. (103 v. 873; 110 v. 296.)

SECTION 1655-1. Expense for return of accused who has fled to another state. When a person charged with the violation of any provision of the foregoing section, has fled to another state, or territory, and the governor has issued a requisition for such person, the board of county commissioners shall pay from the general expense fund of the county to the agent designated in such requisition, all necessary expenses incurred in pursuing and returning such prisoner so charged. (109 v. 53.)

SECTION 1656. Payment by county to dependent children of prisoner. When a person is convicted and sentenced to imprisonment in a work-house for any violation of the provisions of section 1655, the county from which such person is so sentenced, shall pay from the general revenue fund fifty cents, for each day such prisoner is confined, to the juvenile court of such county, for the maintenance of the dependent children of such prisoner. Such expenditures shall be made under the direction of the judge, who shall designate a probation officer for such purpose. The county commissioners of such county shall make the allowances herein provided for, which shall be paid from the county treasury upon the warrant of the county auditor. (110 v. 265.) •

SECTION 1657. Commitment to county jail, etc. Pending final disposition of a case, the judge may commit any person arrested or cited to appear, except the minor under fourteen years of age, to the county jail until the case is disposed of, but such trial shall be commenced within four days of such commitment unless upon the request of the defendant. Pending final disposition, the judge may direct that the minor in ques-

tion be left in the possession of the person having charge of him, or that he be kept in some suitable place provided by the county or city authorities. (99 v. 196.)

SECTION 1658. Citation or arrest ordered after hearing. If it appear upon the hearing that any person not cited to appear, has probably abused or has aided, induced, caused, encouraged, or contributed to the dependency, neglect or delinquency of a minor under the age of eighteen years, or acted in a way tending to cause delinquency in such minor, or that a person, charged by law, with the care, support, education and maintenance of any minor, has abandoned, failed, refused, or neglected, being able to do so, to support, or sufficiently contribute toward the support, education and maintenance of such minor, the judge may order such person to be cited to appear at a subsequent day, or may issue a warrant to arrest such person as hereinbefore provided, and upon citation, warrant and hearing the same proceedings may be had as in the first instance. (99 v. 196; 103 v. 874.)

SECTION 1659. Transfer of case to juvenile court. When a minor under the age of eighteen years is arrested, such child, instead of being taken before a justice of the peace or police judge, shall be taken directly before such juvenile judge; or, if the child is taken before a justice of the peace or a judge of the police court, it shall be the duty of such justice of the peace or such judge of the police court, to transfer the case to the judge exercising the jurisdiction herein provided. The officers having such child in charge shall take it before such judge, who shall proceed to hear and dispose of the case in the same manner as if the child had been brought before the judge in the first instance. (103 v. 874.)

SECTION 1660. Writs, to whom issued. The summons, warrants, citations, subpoenas and other writs of such judge may issue to a probation officer of any such court or to the sheriff of any county, and the provisions of law relating to the subpoenaing of witnesses in criminal cases shall apply in so far as they are applicable. (103 v. 874.)

SECTION 1661. Expense; how paid. When a summons or warrant is issued to any such officer, the expense in pursuing and bringing the person named therein, before such judge, shall be paid by the county in the manner prescribed by law for the payment of deputies, assistants and other employes of county officers. (103 v. 874.)

SECTION 1662. Appointment of probation officers. The judge designated to exercise jurisdiction may appoint one or more discreet persons of good moral character, one or more of whom may be a woman, to serve as probation officers, during the pleasure of the judge. One of such officers shall be known as chief probation officer and there may be one or more assistants. Such chief probation officer and assistants shall receive such compensation as the judge appointing them may designate at the time of the appointment; provided, however, that such compensation may be increased or decreased at any time by said judge, but the compensation of the chief probation officer shall not exceed four thousand dollars per annum and that of the assistants shall not exceed twenty-four hundred dollars per annum. The judge may appoint other probation officers, with or without compensation, when the interests of the county require it.

The compensation of the probation officers shall be paid by the county treasurer from the county treasury upon the warrant of the county auditor, which shall be issued upon itemized vouchers sworn to by the probation officers and certified to by the judge of the juvenile court. The county auditor shall issue his warrant upon the treasury and the treasurer shall honor and pay the same, for all salaries, compensation and expenses provided for in this act, in the order in which proper vouchers therefor are presented to him. (110 v. 155.)

SECTION 1663. Duties and powers of probation officers. When a complaint is made or filed against a minor, the probation officer shall inquire into and make examination and investigation into the facts and circumstances surrounding the alleged delinquency, neglect, or dependency, the parentage and surroundings of such minor, his exact age, habits, school record, and every fact that will tend to throw light upon his life and character. He shall be present in court to represent the interests of the child when the case is heard, furnish to the judge such information and assistance as he may require, and take care of any child before and after trial as the judge may direct. He shall serve the warrants and other processes of the court within or without the county, and in that respect is hereby clothed with the powers and authority of sheriffs. He may make arrests without warrant, upon reasonable information or upon view of the violation of any of the provisions of this chapter, detain the person so arrested pending the issuance of a warrant and perform such other duties incident to their offices, as the judge directs. All sheriffs, deputy sheriffs, constables, marshals and police officers shall render assistance to probation officers, in the performance of their duties, when requested so to do. (99 v. 198.)

SECTION 1664. Prosecuting attorney, duty of. On the request of the judge exercising such jurisdiction, the prosecuting attorney of the county shall prosecute all persons charged with violating any of the provisions of this chapter. (99 v. 198.)

SECTION 1665. Bail. The provisions of law relating to bail in criminal cases in the common pleas court shall apply to persons committed or held under the provisions of this chapter so far as they are applicable. (99 v. 198.)

SECTION 1666. Suspension of sentence. In every case of conviction and where imprisonment is imposed as part of the punishment, such judge may suspend sentence upon such conditions as he imposes. (99 v. 198.)

SECTION 1667. Forfeit of bond. When, as a condition of suspension of sentence, bond is required and given, upon the failure of a person giving such bond to comply with the terms and conditions thereof, such bond may be forfeited, the suspension terminated by the judge, the original sentence executed as though it had not been suspended, and the term of any jail or workhouse sentence imposed in such case shall commence from the date of imprisonment of such person after such forfeiture and termination of suspension. Any part of such sentence which may therefore have been served, shall be deducted from any such period of imprisonment. (99 v. 198.)

SECTION 1668. Error proceedings. The provisions of the law relating to error proceedings from the court of common pleas, including the allowance and signing of bills of exceptions shall apply to prosecutions of persons over eighteen years of age under this chapter, and from the judgment of a judge of the court of common pleas in such prosecutions error may be prosecuted to the circuit court of the county under laws governing prosecution of proceedings in error in other criminal cases to such circuit court; and from the judgment of a judge of the probate court in such prosecution, error may be prosecuted to the common pleas court of the county under the laws governing prosecution of proceedings in error from the probate court to the court of common pleas. A petition in error shall not be filed either in the circuit court or court of common pleas except upon good cause shown, upon motion and notice to the prosecuting attorney, as in civil cases, or unless such motion is allowed by such courts. (103 v. 875.)

SECTION 1669. Findings, not lawful evidence. The disposition of, or any order, judgment, or finding against a child under this chapter, or any evidence given in any proceeding thereunder, shall not in any civil, criminal or other cause or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases herein against the same child. (99 v. 199.)

SECTION 1670. Detention home, how established and conducted. Upon the advice and and recommendation of the judge exercising the jurisdiction provided herein, the county commissioners shall provide by purchase or lease, a place to be known as a "detention home" within a convenient distance of the court house, not used for the confinement of adult persons charged with criminal offenses, where delinquent, dependent or neglected minors under the age of eighteen years may be detained until final disposition, which place shall be maintained by the county as in other like cases. In counties having a population in excess of forty thousand, the judge may appoint a superintendent and matron who shall have charge of said home, and of the delinquent, dependent and neglected minors detained therein. Such superintendent and matron shall be suitable and discreet persons, qualified as teachers of children. Such home shall be furnished in a comfortable manner and nearly as may be as a family home. So far as possible delinquent children shall be kept separate from dependent children in such home. The compensation of the superintendent and matron shall be fixed by the county commissioners. Such compensation and the expense of maintaining the home shall be paid from the county treasury upon the warrant of the county auditor, which shall be issued upon the itemized voucher, sworn to by the superintendent and certified by the judge. In all such homes the sexes shall be kept separate, so far as practicable. (99 v. 199.)

SECTION 1671. Expenses of detention home. When such detention home is provided by the county commissioners, and upon such home being recommended by the judge, the commissioners shall enter an order on their journal transferring to the proper fund from any other fund or funds of the county, in their discretion, such sums as may be necessary to purchase or lease such home and properly furnish and conduct it and pay the compensation of the superintendent and matron. The commis-

sioners shall likewise upon the appointment of probation officers, transfer to the proper fund from any other fund or funds of the county, in their discretion, such sums as may be necessary to pay them, and such transfers shall be made upon the authority of this chapter. At the next tax levying period, provisions shall be made for the expenses of the court. (99 v. 199.)

SECTION 1672. Temporary or permanent care and custody of child, adoption report. If the court awards a child to the care of an institution, association, or a state board in accordance with the provisions of this and other chapters, the judge shall in the award or commitment designate whether it is for temporary or permanent care and custody. If for temporary care, the award or commitment shall not be for more than twelve months, and before the expiration of such period the court shall make other disposition of the matter, or recommit the child in the same manner. During such period of temporary care the institution, association or state board to which such child is committed shall not place it in a permanent foster home, but shall keep it in readiness for return to parents or guardian whenever the court shall so direct. At any time during such temporary custody the institution or board to whom such child is committed, may, whenever there is an opportunity to place such child in a foster home by adoption, request the court to determine whether such commitment should be modified to include permanent care and custody. Whenever a child is committed to the permanent care of an institution, association or a state board, it shall ipso facto come under the sole and exclusive guardianship of such institution, association or state board, whereupon the jurisdiction of the court shall cease and determine, except that such institution, association or board, to which such child is permanently committed may petition said court to make other disposition of such child because of physical, mental or moral defects. Such institution, association or state board may place such child in a foster family home and shall be made a party to any proceedings for the legal adoption of the child. Assent on the part of such institution, association or state board shall be sufficient to authorize the judge to enter the proper order or decree of adoption. In a similar manner the court may award a child to the care or guardianship of an individual, but such individual shall not place such child in the care of another person or assent to adoption except upon order of said juvenile court; such guardianship shall not include the guardianship of any estate of the child. For the purpose of information and co-operative supervision the juvenile court shall report monthly to the board of state charities the names of children committed to institutions and individuals; provided that such report shall not include a child coming under the supervision and custody of the court but permitted to remain with parents or guardian. The board of state charities shall prepare and furnish suitable blanks for such reports. (108 v. Pt. I. 260.)

SECTION 1673. Repealed. (110 v. 267.)

SECTION 1674. Agent of certain institutions; duties of. The chief officer of the boys' industrial school, and of the girls' industrial school, and the manager of any other institution to which juvenile delinquents may be committed, shall, each, maintain agents of such institution, who

shall examine the homes of children paroled for the purpose of reporting to such chief officer or manager, whether they are suitable homes, and assist children paroled or discharged from such institution in finding suitable employment, and maintain a friendly supervision over paroled inmates. Such agents shall hold office subject to the pleasure of the chief officer or manager making the appointment and shall receive such compensation as the Ohio board of administration may determine. (103 v. 876.)

SECTION 1675. Judge may require report from institution. At any time the judge may require from an association receiving or desiring so to receive children, such reports, information and statements as he deems proper and necessary. He may at any time require from an association or institution, reports, information or statements concerning any child or children committed to it by him, under the provisions of this chapter. (103 v. 861, 877.)

SECTION 1676. Repealed (103 v. 864.)

SECTION 1677. Association of other states. No association of another state, incorporated or otherwise, shall place a child in a family home within the boundaries of this state, either with or without indenture or for adoption, unless such association shall have furnished the board of state charities with such guaranty as it may require that no child having a contagious disease, deformity, feeble mind or vicious character, shall be brought into this state by such association or its agents, and that such association will promptly receive and remove from the state, a child brought into the state by its agents, which shall become a public charge, within the period of five years thereafter. (103 v. 864) (877.)

SECTION 1678. Penalty. Whoever violates any of the provisions of Section 1677 shall be imprisoned in the county jail not more than thirty days, or fined not less than five dollars or more than one hundred dollars, or both, in the discretion of the judge. (99 v. 201.)

SECTION 1679. Religious belief. The judge in committing children shall place them, so far as practicable, in the care and custody of an individual holding the same religious belief as such child or its parents, or with some association which is controlled by persons of like religious faith as such child or its parents. (99 v. 202.)

SECTION 1680. How chapter construed as to industrial schools. Nothing herein shall be construed to repeal any provision of law relating to the boys' industrial school or the girls' industrial school. (103 v. 864 (877.))

SECTION 1681. When child is charged with felony. When any information or complaint shall be filed against a delinquent child under these provisions, charging him with felony, the judge may order such child to enter into a recognizance, with good and sufficient surety, in such amount as he deems reasonable, for his appearance before the court of common pleas at the next term thereof. The same proceedings shall be had thereafter upon such complaint as now authorized by law for the indictment, trial, judgment and sentence of any other person charged with a felony. (99 v. 202.)

SECTION 1682. Fees and costs, how paid. Fees and costs in all such cases with such sums as are necessary for the incidental expenses of the court and its officers, and the expense of transportation of children to places to which they have been committed, except the fees of the court and the fees and expenses of the sheriff and his deputies, shall be paid from the county treasury upon specifically itemized vouchers, verified by oath and certified to by judge of the court. (108 v. Pt. II, 1023.)

SECTION 1683. Chapter to be liberally construed. This chapter shall be liberally construed to the end that proper guardianship may be provided for the child, in order that it may be educated and cared for, as far as practicable in such manner as best subserves its moral and physical welfare, and that, as far as practicable in proper cases, the parent, parents or guardian of such child may be compelled to perform their moral and legal duty in the interest of the child. (99 v. 202.)

See Opinions of Attorney General (1917), p. 1361, cited under Sec. 1671.

SECTION 1683-1. Jurisdiction. The judge designated to transact the business arising under the jurisdiction conferred in this chapter shall have jurisdiction of all misdemeanors against minors, and of offenses prescribed in sections nine hundred and twenty-eight, six thousand three hundred and forty-four, six thousand three hundred and forty-five, six thousand three hundred and seventy-three, twelve thousand six hundred and sixty-four, twelve thousand six hundred and sixty-six, twelve thousand seven hundred and eighty-seven, thirteen thousand and thirty-one, thirteen thousand and thirty-five, and thirteen thousand and thirty-eight. In all such cases any person may file with the clerk of the judge exercising in the jurisdiction an affidavit, setting forth briefly, in plain and ordinary language, the charges against the accused, and he shall be tried thereon, and in such prosecutions an indictment by the grand jury or information by the prosecuting attorney shall not be required. The judge shall forthwith issue his warrant for the arrest of the accused, who, when arrested, shall be taken before said judge, and tried according to the provisions of this chapter, and, if found guilty, shall be punished in the manner provided for by law. (102 v. 425.)

MOTHERS' PENSIONS

SECTION 1683-2. Mothers' pensions; who entitled to; allowance. For the support of women whose husbands are dead, or become permanently disabled by reason of physical or mental infirmity, or whose husbands are prisoners or whose husbands have deserted, and such desertion has continued for a period of three years, when such women are poor, and are the mothers of children not entitled to receive age and schooling certificates, and such mothers and children have a legal residence in any county of the state for two years, the juvenile court may make an allowance to each of such women as follows: not to exceed thirty-five dollars a month when she has but one child not entitled to an age and schooling certificate, and if she has more than one child not entitled to an age and schooling certificate, it shall not exceed thirty-five dollars a month for the first child and ten dollars a month for each of the other children not

entitled to an age and schooling certificate. The order making such allowance shall not be effective for a longer period than six months, but upon the expiration of such period, said court may, from time to time, extend such allowance for a period of six months or less. Such homes shall be visited from time to time by a probation officer, the agent of an associated charities organization, or of a humane society as the court may direct, or in the absence of such probation officer, society or organization in any county, the sheriff of said county shall make such visits as directed by the probate court; provided that the person, other than the sheriff, who actually makes such visits, shall be thoroughly trained in charitable relief work, and the report or reports of such visiting agent shall be considered by the court in making such order for relief. (109 v. 70.)

SECTION 1683-3. Conditions of allowance. Such allowance may be made by the juvenile court, only upon the following conditions: First, the child or children for whose benefit the allowance is made must be living with the mother of such child or children; second, the allowance shall be made only when in the absence of such allowance, the mother would be required to work regularly away from her home and children, and when by means of such allowance she will be able to remain at home with her children, except that she may be absent for work for such time as the court deems advisable; third, the mother must in the judgment of the juvenile court be a proper person, morally, physically and mentally for the bringing up of her children; fourth, such allowance shall in the judgment of the court be necessary to save the child or children from neglect and to avoid the breaking up of the home of such woman; fifth, it must appear to be for the benefit of the child to remain with such mother; sixth, a careful preliminary examination of the home of such mother must first have been made under the direction of the court by the probation officer, the agent of an associated charities organization or humane society, or in the absence of such probation officer, society or organization in any county, the sheriff of such county shall make such investigations as the court may direct, and a written report of the result of such examination or investigation shall be filed with the juvenile court, for the guidance of the court in making or withholding such allowance. (106 v. 436.)

SECTION 1683-4. When allowance shall cease. Whenever any child shall reach the age for legal employment, any allowance made to the mother of such child for the benefit of such child shall cease. The juvenile court may, in its discretion, at any time before such child reaches such age, discontinue or modify the allowance to any mother and for any child. (103 v. 878.)

SECTION 1683-5. Disposal of fund when amount insufficient. Should the fund at the disposal of the court for this purpose be sufficient to permit an allowance to only part of the persons coming within the provisions of this act, the juvenile court shall select those cases in most urgent need of such allowance. (103 v. 878.)

SECTION 1683-6. To whom act does not apply. The provisions of this act shall not apply to any woman who, while her husband is impris-

oned receives sufficient of his wages to support the child or children. (103 v. 878.)

SECTION 1683-7. Attempt to obtain allowance by fraud; penalty. Any person or persons fraudulently attempting to obtain any allowance for a person not entitled thereto, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine of not less than five nor more than fifty dollars, or imprisoned in the county jail, for a period of not less than two months, or both. (103 v. 878.)

SECTION 1683-8. Record of proceedings. Appeal; error. In each case where an allowance is made to any woman under the provisions of this act, a record shall be kept of the proceedings, and any citizen of the county may, at any time, file a motion to set aside, or vacate or modify such judgment and on such motion said juvenile court shall hear evidence, and may make a new order sustaining the former allowance, modify or vacate the same, and from such order, error may be prosecuted, or an appeal may be taken as in civil actions. If the judgment be not appealed from, or error prosecuted, or if appealed or error prosecuted, and the judgment of the juvenile court be sustained or affirmed, the person filing such motion shall pay all the costs incident to the hearing of such motion. (103 v. 878.)

SECTION 1683-9. Provisions for mothers' pensions; tax levy. It is hereby made the duty of the county commissioners to provide out of the money in the county treasury such sum each year thereafter as will meet the requirements of the court in these proceedings. To provide the same they shall levy a tax not to exceed one-fifth of a mill on the dollar valuation of the taxable property of the county. Such levy shall be subject to all the limitations provided by law upon the aggregate amount, rate, maximum rate and combined maximum rate of taxation. The county auditor shall issue a warrant upon the county treasurer for the payment of such allowance as may be ordered by the juvenile judge. (108 v. Pt. I, 624.)

STATE INSTITUTIONS

POWERS AND RESTRICTIONS

SECTION 1807. How board of an institution may acquire real estate. When it is necessary for a state benevolent, correctional or penal institution, or for the accomplishment of the purposes for which it was organized, or is being conducted, to acquire any real estate, right of way or easement in real estate, and the state officer or board in control thereof is unable to agree with the owner or owners thereof upon the price to be paid therefor, such property may be appropriated in the manner provided by law for the appropriation of property for other state purposes. (109 v. 127.)

SECTION 1809-1. Contract with municipality for sewer connections. Any commission or board vested with authority to erect or manage a state institution, located outside of the corporate limits of a municipality and the council of such municipality may enter into a contract upon such terms and conditions as may be agreed upon, to connect the

sewer system of such institution with that of such municipality. Such contract may include payment for the increased cost to such municipality occasioned by such connection and service rendered, provided that such contract shall be made for a period of not less than ten years, and is approved by the governor and the attorney general. (103 v. 658.)

SECTION 1810. Certain kinds of business prohibited near benevolent institutions. No person, firm or corporation shall erect or carry on, within one hundred and twenty rods of a benevolent institution or Long-view asylum a rolling mill, blast furnace, nail factory, copper smelting works, boiler factory, petroleum oil refinery, slaughter house, tallow chandlery, or glue, soap or starch factory, or any other works or business productive of unwholesome or noxious odors of gases or loud noises which may annoy or endanger the health or interfere with the proper treatment of the inmates of such institution. (63 v. 96.)

SECTION 1811. Permission from common pleas court to carry on such business. A person, firm or corporation may file a petition in the court of common pleas of the county in which any such institution is located, in which petition the desire to erect or carry on at a less distance than that prohibited in the preceding section shall be set forth, the business so prohibited, the precise point of its establishment and the reasons and circumstances, in his opinion, why the erection of carrying on thereof would not annoy or endanger the health, convenience, or recovery of the inmates of such institution. The petitioner shall give notice in a newspaper of general circulation in the county of the pendency and prayer of the petition for at least six consecutive weeks previous to the term of court next to be held therein, and serve a written notice upon the superintendent of the institution at least thirty days before the day set for hearing the petition. (63 v. 96.)

SECTION 1812. Hearing of petition and order of court. If, upon the hearing of the petition, it appears that the notice has been given as required in the preceding section, and the court is of the opinion that no good reason exists why such establishment may not be so erected or such business carried on and that by the erection or carrying on thereof at the point named, such institution will sustain no detriment, the court may issue an order granting the prayer of the petitioner. Thereafter the petitioner may locate such establishment or carry on such business at the point named in the petition. (63 v. 96.)

SECTION 1813. Books, papers, etc., belonging to the state. All books, papers, vouchers, and contracts, pertaining to a benevolent, correctional or penal institution are the property of the state, and shall be carefully preserved. (Revised Statutes of 1880.)

SECTION 1814. Suits by the institutions. Claims due a benevolent institution may be sued for in the name of the institution. (75 v. 150.)

SECTION 1815. Inmates to be supported at the expense of state; exceptions. All persons now inmates of, or hereafter admitted into, a benevolent institution, except as otherwise provided in this chapter, and except as otherwise provided in chapters relating to particular institutions, shall be maintained at the expense of the state. They shall be

neatly and comfortably clothed and their traveling and incidental expenses paid by themselves or those having them in charge. (101 v. 157.)

SECTION 1815-1. Judge shall certify name of guardian or relative. When any person is committed to a state hospital for the insane, to the Longview hospital, to the Ohio Hospital for Epileptics or to the Institution for Feeble-Minded, the judge making such commitment shall at the same time certify to the superintendent of such institution, and the superintendent shall thereupon enter upon his records the name and address of the guardian, if any appointed, and of the relative or relatives liable for such person's support under section 1815-9. (102 v. 63.)

SECTION 1815-2. Rate for support. The maximum rate for the support of inmates of such institutions shall be three dollars and fifty cents per week. Less amounts may be accepted by the board when conditions warrant such action, or when offered by persons not liable. (102 v. 63.)

SECTION 1815-3. Appointment and duties of agent. The board of state charities shall appoint an agent who shall receive an annual salary of not more than eighteen hundred dollars and the necessary expenses incurred in the performance of his duties. Said agent shall investigate the financial condition of the inmates now in the aforesaid institutions, or hereafter committed or admitted thereto, and of the relatives liable for the support of such inmates, in order to determine the ability of any inmate or such relatives to make payment in whole or in part for the support of the said inmate; provided, that in all cases due regard shall be had for others who may be dependent for support upon the estate of said inmate. (101 v. 157.)

SECTION 1815-4. Testimony. Order for payment. Collection. Such agent in making investigation shall have power to subpoena witnesses, take testimony under oath and to examine any public records relating to the estate of an inmate or of a relative liable for his or her support. All his information, conclusions and recommendations shall be submitted to the board of state charities. The board, or a committee thereof appointed for that purpose, shall determine whether such relative shall be required to pay for the support of such inmate or whether such charges shall be made against the estate of such inmate. An order shall be issued to the persons who are determined liable for such payments, requiring them to pay monthly, quarterly or otherwise, as may be arranged, to the state such amount as it or the committee shall deem proper, but no order shall be issued compelling payment for the care of an inmate prior to May 2nd, 1910. (106 v. 504.)

SECTION 1815-5. Release or modification. Any person who has been ordered to make payment for the support of an inmate may petition the board of state charities for a release from, or modification of such order, and said board, after an investigation by the agent, may cancel or modify such former order. The board shall at any time for due cause have the power to increase the amount previously ordered paid. (101 v. 157.)

SECTION 1815-6. Superintendent to assist. The superintendents of the state institutions shall submit to the board of state charities such

information as they may obtain concerning the financial condition of any inmate or of relatives liable for his or her support. (101 v. 157.)

SECTION 1815-7. Appointment of guardian. In case the estate of any inmate is sufficient for his or her support, without hardship to any others who may be dependent thereon, and no guardian has been appointed for such estate, the agent shall petition the probate court of the proper county to appoint a guardian. (101 v. 157.)

SECTION 1815-8. Assistant agents; salary. In order to facilitate the investigation of the financial condition of the inmates in such institutions, and of persons liable for their support, the board of state charities may employ assistant agents not to exceed five in number, who shall receive an annual salary of not more than fifteen hundred dollars, and necessary expenses. (103 v. 879.)

SECTION 1815-9. Liable for support. It is the intent of this act that a husband may be held liable for the support of a wife while an inmate of any of said institutions, a wife for a husband, a father or mother for a son or daughter, and a son or daughter, or both, for a father or mother. (101 v. 157.)

SECTION 1815-10. Duty of executor or administrator. Contract for fixed annual amount. Copy filed in probate court. Upon the death of a person who is an inmate or has been an inmate since the passage of this act, of any of the aforesaid institutions and who is possessed of property, it shall be the duty of the executor or administrator to ascertain from the board of state charities whether the deceased person was supported while an inmate, and if not, the board may present a claim for support, or for the balance due in case less than the maximum rate had been paid. Such claim shall be allowed and paid as other lawful claims against the estate; provided that the board may waive the presentation of any claim when in their judgment an otherwise dependent person will be directly benefited by the estate. It shall be lawful for the board to accept from a guardian or trustee of an inmate a contract agreeing to pay to the state from the property of his ward before or at the death of his ward a fixed annual amount for the support of such ward while an inmate, and with interest at four per cent per annum. A copy of such contract shall be filed in the probate court of the proper county, and duly entered as a part of the records concerning such ward. (102 v. 63.)

SECTION 1815-12. County liability for support. The county from which an inmate of an institution for the feeble-minded was committed shall be liable for such inmate's support, provided the same is not paid otherwise as provided by this act. The treasurer of each county shall pay to the treasurer of state, upon the warrant of the county auditor, the amount chargeable against such county for the preceding six months for all inmates therefrom not otherwise supported, upon the presentation of the statement thereof. When any person committed to an institution under the control and management of the Ohio board of administration, other than an institution for the feeble-minded, is transferred or removed, as provided by law by said board of administration from such institution to an institution for the feeble-minded, the county from which said person was committed shall be liable for the support of such person while in

said institution for the feeble-minded, as hereinabove provided, and to the same extent as if such person had been originally committed from said county to said institution for the feeble-minded. (108 v. Pt. I, 524.)

SECTION 1815-13. Collections for support of patients; investigations. It shall be the duty of the board of state charities to make collections for the support of patients at the Ohio state sanatorium. When the superintendent of the Ohio state sanatorium shall report to the board of state charities that an applicant for admission to or an inmate of that institution or any person legally responsible for his support is not financially able to pay the minimum amount fixed by section 2068 of the General Code, it shall be the duty of the state board of charities by its authorized agents to make a thorough investigation as is provided by law for such investigations in other institutions. (108 v. Pt. I, 611.)

SECTION 1815-14. When county shall pay for support of patients. If after the investigation provided in the next preceding section it shall be found that said applicant or inmate or any person legally responsible for his support is unable to pay the minimum amount fixed by law, said board of state charities shall determine what amount, if any, said applicant or inmate or any person legally responsible for his support shall pay. The difference between the amount so determined and the minimum amount fixed by section 2068 of the General Code shall be paid by the county in which said applicant or patient has a legal residence. The amount so determined to be paid by the county shall be paid from the poor fund on the order of the county commissioners. (108 v. Pt. I, 611.)

SECTION 1815-15. Counties not required to support patients. No county that is maintaining a county tuberculosis hospital or has joined in the erection or maintenance of a district tuberculosis hospital or has contracted with proper authorities of a county, district or municipal tuberculosis hospital for the care and treatment of residents of that county suffering from tuberculosis shall be compelled to support patients in the Ohio state sanatorium, but the county commissioners of any such county may agree to support or aid in the support of a resident of that county in the Ohio state sanatorium. (106 v. 559.)

SECTION 1816. Payment of expenses and collection from county. In case of failure to pay incidental expenses, or furnish necessary clothing, the steward or other financial officer of the institution may pay such expenses, and furnish the requisite clothing, and pay therefor from the appropriation for the current expenses of the institution, keeping and reporting a separate account thereof. The account so drawn, signed by such officer, countersigned by the superintendent shall be forwarded by such officer to the auditor of the county, from which the person came; and such auditor shall issue his warrant, payable to the treasurer of state for the amount of such bill and charge the amount to the current expense fund. The county auditor shall then collect the account in the name of the state as other debts are collected. (106 v. 503.)

SECTION 1817. Non-resident person admitted to benevolent institution in certain cases. A person not a legal resident of the state shall not be admitted to a benevolent institution, but, after investigation as hereinafter provided, the board of state charities may authorize the reception

of such person into an institution, if the legal residence cannot be ascertained or the peculiar circumstances of the case constitute, in their judgment, a sufficient reason therefor. (99 v. 323.)

SECTION 1818. Information requisite in application of admission. When application to a judge of the probate court is made for the commitment of a person to a hospital for insane, a hospital for the epileptic or the institution for the feeble-minded, or whenever application to the superintendent of any other benevolent institution is made for the admission of a person thereto, such judge or superintendent shall require answers to the following questions:

1. Where was the person born?
2. When did he become a resident of this state?
3. When did he become a resident of the county?
4. If not a legal resident of the state and county, on what ground is the application made? (99 v. 323.)

SECTION 1819. Finding of judge or superintendent reported to Ohio board of administration. If the judge or superintendent finds that the person whose commitment or admission is requested has not a legal residence in this state, or his legal residence is in doubt or unknown, and is of the opinion that such person should be committed or admitted to such institution, he shall notify without delay the Ohio board of administration, giving his reasons for requesting commitment or admission. (103 v. 446.)

SECTION 1820. Proceedings by Ohio board of administration. The Ohio board of administration by a committee, its secretary, or such agent as it designates, shall investigate the legal residence of such person, and may send for persons and papers and administer oaths or affirmations in conducting such investigation. At any time after investigation is made, and before or after the admission, or commitment to such institution, a non-resident person whose legal residence has been established may be transported thereto at the expense of the state. (103 v. 446.)

SECTION 1821. Governor may appoint policemen for institution. Upon the application and recommendation of the board of trustees of a benevolent or correctional institution, the governor shall commission not to exceed three employes, designated by the superintendent, to be special policemen thereof, but the number of employes of the institution, or the compensation of an employe shall not be thereby increased. (81 v. 81.)

SECTION 1822. Powers and duties of such policemen. Such officers shall take an oath of office, and may protect the property of such institution, suppress riots, disturbances, and the breaches of peace and enforce laws for the preservation of good order. Upon view or information, they may arrest, without warrant, any person trespassing upon the grounds or destroying property of the institution, or violating a law of the state, and bring such person before the mayor or justice of the peace within the township, to be dealt with according to law. (81 v. 81.)

SECTION 1823. Distribution of officers and employes. The appointments of officers and employes of the benevolent, correctional and penal institutions controlled exclusively by the state, in the aggregate, shall be

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equitably distributed throughout the state. Not more than ten per cent thereof at any such institution at the time of appointment or employment shall be residents of the same county. An appointment or employment in contravention of this provision shall be inoperative and void. (88 v. 73.)

SECTIONS 1824 to 1827, repealed May 11, 1911.

SECTIONS 1828 to 1830, repealed April 28, 1913.

SECTION 1831. **Arrest and return of fugitives from institutions.** On the order of the superintendent or other officer of such institution, a fugitive from any benevolent, correctional or penal institution may be arrested and returned thereto, or to any officer or agent thereof, by any sheriff, constable, police officer, or other person, and may also be arrested and returned by an officer or agent of the institution. (97 v. 307.)

DEPARTMENT OF PUBLIC WELFARE

(Act establishing a board of administration for state institutions (now Department of Public Welfare)—see *Administrative Code*.)

SECTION 1832. **Purpose of act.** The intent and purpose of this act are to provide humane and scientific treatment and care and the highest attainable degree of individual development for the dependent wards of the state;

To provide for the delinquent such wise conditions of modern education and training as will restore the largest possible portion of them to useful citizenship;

To promote the study of the causes of dependency and delinquency, and of mental, moral and physical defects, with a view to cure and ultimate prevention;

To secure, by uniform and systematic management, the highest attainable degree of economy in the administration of the state institutions consistent with the objects in view;

This act shall be liberally construed to these ends. (102 v. 211.)

SECTION 1833. Repealed. (109 v. 132.)

SECTION 1834. Repealed. (109 v. 132.)

SECTION 1835. **Institutions.** * * * * * They shall appoint * * * * * such * * * employes as may be deemed necessary for the efficient conduct of the business, prescribe their titles and duties and fix their compensation, except as otherwise provided herein.

The board shall assume its duties on August 15, 1911, and shall have full power to manage and govern the following institutions:

The Athens State Hospital.

The Cleveland State Hospital.

The Columbus State Hospital.

The Dayton State Hospital.

The Toledo State Hospital.

The Lima State Hospital.

The Massillon State Hospital.

The Ohio Hospital for Epileptics.

The Institution for Feeble-Minded Youth which shall be known hereafter as The Institution for Feeble-Minded.

The State School for the Deaf.

The State School for the Blind.

The Ohio Soldiers' and Sailors' Home.

The Home of the Ohio Soldiers, Sailors, Marines, their Wives, Mothers and Widows and Army Nurses, to be known hereafter as The Madison Home.

The Boys' Industrial School.

The Girls' Industrial Home.

The Ohio State Reformatory.

The Ohio Penitentiary.

*The Ohio Reformatory for Women.

The Ohio State Sanatorium. (102 v. 212.)

*Under Section 2148-1 G. C. the Ohio Board of Administration assumes control of this institution April 6, 1916.

SECTION 1836. Repealed. (109 v. 132.)

SECTION 1837. Repealed. (109 v. 132.)

SECTION 1838. **Powers.** The board, in addition to the powers expressly conferred, shall have all power and authority necessary for the full and efficient exercise of the executive, administrative and fiscal supervision over all said institutions. (102 v. 211.)

SECTION 1839. **Title and rights of board.** The board on its organization shall succeed to and be vested with the title and all rights of the present boards of trustees, boards of managers, and commissions of and for said several institutions in and to land, money or other property, real and personal, held for the benefit of their respective institutions, or for other public use, without further process of law, but in trust for the state of Ohio. Said several boards of trustees, boards of managers, and commissions now charged with duties respecting the institutions above named shall on and after August 15, 1911, have no further legal existence and the board is hereby authorized and directed to assume and continue, as successor thereof, the construction, control and management of said institutions, subject to the provision of this act. (102 v. 211.)

SECTION 1840. **May accept and hold, devise, grant or bequest. Annual report shall contain statement of such funds.** The board shall accept and hold on behalf of the state, if deemed for the public interest, any grant, gift, devise or bequest of money or property made to or for the use or benefit of said institutions or any of them, whether directly or in trust, or for any pupil or inmate thereof. The board shall cause each such gift, grant, devise or bequest to be kept as a distinct property or fund, and shall invest the same, if in money, in the manner provided by law; but the board may, in its discretion, deposit in a proper trust company or savings bank any fund so left in trust during a specified life or lives, and shall adopt rules and regulations governing the deposit, transfer or withdrawal of such funds and the income thereof. The board shall, upon the expiration of any trust according to its terms dispose of the funds or property held thereunder in the manner provided in the instrument creating the trust.

The board shall include in the annual report a statement of all such funds and property and the terms and conditions relating thereto; provided that moneys or property deposited with officers of institutions by relatives, guardians, conservators and friends for the special benefit of any pupil or inmate, shall remain in the hands of such officers for use accordingly; but each such officer shall keep an itemized book account of the receipt and disposition thereof, which book shall be open at all times to the inspection of any member of the board of administration or of the board of state charities. (102 v. 211.)

SECTION 1841. Board shall regulate the admission and discharge of inmates. The board shall have power to regulate the admission and discharge of the pupils and inmates in said several institutions, as provided by law. Provided, that subject to the approval of the Ohio board of administration, the admission and discharge of patients in the Ohio state sanatorium shall be governed by rules and regulations adopted by the state board of health. (106 v. 558.)

SECTION 1841-1. What minors considered wards of the state. Guardianship of. All minors who in the judgment of the juvenile court, require state institutional care and guardianship shall be wards of the state, and shall be committed to the care and custody of "The Ohio board of administration," which board thereupon becomes vested with the sole and exclusive guardianship of such minors. (103 v. 175.)

SECTION 1841-2. Bureau of juvenile research. "The Ohio board of administration" shall provide and maintain a "bureau of juvenile research," and shall employ competent persons to have charge of such bureau and to conduct investigations. (103 v. 175.)

SECTION 1841-3. Board may assign children to bureau for examination and treatment. Assignment of child. "The Ohio board of administration" may assign the children committed to its guardianship to the "bureau of juvenile research," for the purpose of mental, physical and other examination, inquiry or treatment for such period of time as such board may deem necessary. Such board may cause any minor in its custody to be removed thereto for observation and a complete report of every such observation shall be made in writing and shall include a record of observation, treatment, medical history, and a recommendation for future treatment, custody and maintenance. "The Ohio board of administration" or its duly authorized representatives shall then assign the child to a suitable state institution or place it in a family under such rules and regulations as may be adopted. (103 v. 175.)

SECTION 1841-4. Power of board to transfer minor from one institution to another. Any minor having been committed to any state institution may be transferred by such "The Ohio board of administration" to any other institution, whenever it shall appear that such minor by reason of its delinquency, neglect, insanity, dependency, epilepsy, feeble-mindedness, or crippled condition or deformitory, ought to be in another institution. Such board before making transfer shall make a minute of the order for such transfer and the reason therefor upon the record, and shall send a certified copy at least seven days prior to such transfer, to the person shown by its records to have had the care or custody of such

minor immediately prior to its commitment; provided, that except as otherwise provided by law, no person shall be transferred from a benevolent to a penal institution. (103 v. 176.)

SECTION 1841-5. Board may receive minor for observation. "The Ohio board of administration" may receive any minor for observation from any public institution other than a state institution, or from any private charitable institution or person having legal custody thereof, upon such terms as such board may deem proper. (103 v. 176.)

SECTION 1841-6. Expenses, fees and costs. Each county shall bear all the expenses incident to the transportation of each child from such county to such "bureau of juvenile research," together with such fees and costs as are allowed by law in similar cases, which fees, costs and expenses shall be paid from the county treasury upon itemized vouchers certified to by the judge of the juvenile court. (103 v. 176.)

SECTION 1841-7. Repealed. (109 v. 132.)

SECTION 1841-8. Board of administration shall act as commission of lunacy. Powers and duties. The board of administration shall act as commissioners of lunacy, and shall have power to examine into, with or without expert assistance, the question of the sanity or condition of any persons committed to or confined in any public or private hospital or asylum for the insane, or restrained of his liberty by reason of alleged insanity at any place within this state, order and compel the discharge of any such person who shall not be insane and direct what disposition shall be made of him; upon the receipt of such order of discharge, signed by the president of the board and attested by its secretary, or a copy thereof certified by said secretary, by the superintendent or other person in charge of the building in which the person named in such order may be confined, he shall forthwith be discharged or otherwise disposed of according to the terms of said order, and any further or other detention of such person shall be unlawful; provided, however, that no such order shall be made in favor of any person committed and held for trial on a criminal charge, nor in favor of a person held in confinement by an order of a judge or court made in a criminal proceeding, nor in any case unless notice be given to the superintendent or other person having charge of the building in which the alleged insane person is detained and a reasonable opportunity be allowed the person so in charge to justify further detention of the person confined. (103 v. 681.)

SECTIONS 1841-9. Persons committed to institutions under control of board, may be transferred. All persons committed to any institution under the control and management of the Ohio board of administration shall be considered as committed to the control, care and custody of such board. Upon resolution, duly entered upon the minutes of the board, any person committed to one of such institutions may, for reasons set forth in such resolution, be transferred to any other institution; provided that except as otherwise provided by law, no person shall be transferred from a benevolent to a penal institution. (103 v. 681.)

SECTION 1841-10. Board may adjudge inmate of any institution insane and remove to other institutions. The board of administration, acting as a commission of lunacy, may adjudge any inmate in any insti-

tution under its control, or in any county jail, to be insane, feeble-minded or epileptic, and may remove such inmate to any one of the state hospitals, or to the institution for feeble-minded, or to the Ohio Hospital for Epileptics. (103 v. 682.)

SECTION 1841-11. When inmate may be returned. If a convict thus removed from the Ohio Penitentiary or the Ohio State Reformatory recovers his reason before the expiration of his sentence he shall be ordered by the board to be returned to the institution from which he was taken. (103 v. 681, 682.)

SECTION 1841-12. Rules and regulations. The board of administration, acting as a commission of lunacy, shall make rules and regulations for the proper execution of its powers, and may change same from time to time as necessity may demand. (103 v. 682.)

SECTION 1841-13. Section 1. State bureau of criminal identification and investigation created; appointment of superintendent; salary. There is hereby created under the authority and supervision of the Ohio board of administration or such department as shall from time to time have charge of state institutions a state bureau of criminal identification and investigation. Upon the taking effect of this act, the board, with the approval of the governor, shall appoint a well qualified person as superintendent of said bureau, whose salary shall be thirty-six hundred dollars per annum; and a well qualified person as assistant superintendent of said bureau at an annual salary of three thousand dollars; a clerk and such other help as may be necessary from time to time, whose salaries shall be fixed by said board. None of the persons appointed as herein provided shall be subject to the civil service laws. (110 v. 5.)

SECTION 1841-14. Section 2. Suitable quarters, furniture and supplies; inmates assigned as assistants. The bureau shall be supplied with such furniture, fixtures, apparatus and materials as may be necessary for the collection, filing and preservation of all criminal records and records of stolen property filed with the bureau, and suitable quarters in one of the penal institutions of the state in which to carry on the work of this bureau. The superintendent or warden of such designated institution shall furnish or assign as many competent inmates of said institution as may be needed to assist in the work of this bureau. (110 v. 5.)

SECTION 1841-15. Section 3. Duties of superintendent. The superintendent shall procure and file for record photographs copied from all plates or negatives, outline pictures, descriptions, finger-prints, Bertillon measurements and such other information as may be pertinent, of all persons who have been or may hereafter be convicted of felony within the state and of all well-known and habitual criminals from wherever procurable. He shall also file for record the finger-print impressions of all persons confined in any workhouse, jail, reformatory, penitentiary, for the violation of state laws and such other information as he may receive from law enforcement officials of the state and its subdivisions. (110 v. 5.)

SECTION 1841-16. Section 4. Standard impression sheet for finger-prints prepared and furnished. The superintendent of the bureau shall prepare standard impression sheets on which finger-prints may be made

in accordance with the finger-print system of identification. Such sheets may provide for such other descriptive matter as the superintendent may prescribe from time to time. Such sheets shall be furnished to each sheriff, chief of police and to the person in charge of every workhouse, reformatory, penitentiary within the state. (109 v. 585.)

SECTION 1841-17. Section 5. **Impression and description measurements sent by sheriff, etc.** The sheriff, chief of police or other person in charge of each prison, workhouse, reformatory or penitentiary shall send finger-print impressions and such other descriptive measurements as the superintendent may require on forms furnished by him, to this bureau to be filed, classified and preserved. (109 v. 585.)

SECTION 1841-18. Section 6. **Duties of sheriff, chiefs of police in taking finger-prints, etc.** It is hereby made the duty of the sheriffs of the several counties of the state of Ohio and the chiefs of police of incorporated cities therein immediately upon the arrest of any person for any felony, to take his finger-prints accordnig to the finger-print system of identification on the forms furnished by the superintendent, and forward the same, together with such other description as may be required and with the history of the offense committed, to the bureau to be classified and filed. The superintendent shall compare the descriptions received with those already on file in the bureau, and if he finds that the person arrested has a criminal record or is a fugitive from justice he shall at once inform the arresting officer of such fact; and in order to facilitate the work of identification, the name or names under which each person whose identification is thus filed is known, shall be alphabetically indexed by the superintendent.

The provisions of this section shall not apply to violators of city ordinances or those arrested for misdemeanors, unless the officers have reason to believe that he is an old offender, or where it is deemed advisable for the purpose of subsequent identification. (110 v. 5.)

SECTION 1841-19. Section 7. **Descriptions, finger-prints, photographs, etc., sent to bureau by sheriffs and chiefs of police.** It shall also be the duty of each sheriff or chief of police to furnish said bureau with descriptions, finger-prints, photographs and measurements of persons arrested who in their judgment are wanted for serious offenses, are fugitives from justice, or in whose possession at the time or arrest are found goods or property reasonably believed to have been stolen, all persons in whose possession are found burglar outfits or burglar tools or burglar keys, or who have in their possession high power explosives reasonably believed to be intended to be used for unlawful purposes, or persons who are in possession of infernal machines, or other contrivances in whole or in part and reasonably believed by said sheriffs or chiefs of police to be intended to be used for unlawful purposes, and of all persons carrying concealed firearms or other deadly weapons reasonably believed to be carried for unlawful purposes, or who have in their possession inks, dies, paper or other articles necessary in the making of counterfeit bank notes, or in the alteration of bank notes, or dyes, molds or other articles necessary in the making of counterfeit money and reasonably believed to be intended to be used by them for such unlawful purposes. (109 v. 586.)

SECTION 1841-20. Section 8. List and description of stolen property furnished bureau. It shall be the duty of each sheriff or chief of police, to immediately furnish said bureau with a complete list and description of all stolen property reported to him or recovered by him, including automobiles, horses, buggies, motorcycles, bicycles, jewelry of all kinds, firearms, money bonds and all other articles of value, provided the article or articles stolen or recovered are of the value of one hundred dollars or more. (110 v. 6.)

SECTION 1841-21. Section 9. Daily bulletin containing complete record of fugitives wanted, issued and distributed. The superintendent shall prepare and issue a daily bulletin, except Sundays and holidays, which shall contain a complete record in condensed form of fugitives wanted with nature of offense, stolen property and property recovered of which the owner is unknown, with description of same, and other pertinent information, that has been reported to the bureau by the various law enforcement officers within the state. A copy of such bulletin shall be mailed to the sheriff of each county of the state, to the chiefs of police of the cities of the state, and to such other law enforcement officer or other agency as the superintendent may consider advisable. (110 v. 7.)

SECTION 1842. Superintendent. Appointment of employes. Discharged for cause and report. Each of said institutions shall be under the executive control and management of a superintendent or other chief officer designated by the title peculiar to the institution, subject to the rules and regulations of the board and the provisions of this act. Such chief officer shall be appointed by the board to serve for the term of four years unless removed for want of moral character, incompetency, neglect of duty, or malfeasance, after opportunity to be heard.

The chief officer shall have entire executive charge of the institution for which he is appointed, except as otherwise provided herein. He shall select and appoint the necessary employes, but not more than ten per cent. of the total number of officers and employes of any institution shall be appointed from the same county. He shall have power to discharge them for cause, which shall be recorded in a book kept for that purpose, and a report of all appointments and resignations and discharges shall be filed with the board at the close of each month.

For reasons set forth in writing the board may order the discharge of any employe of any institution.

This act shall not be construed as affecting the term of any chief officer which shall be unexpired at the organization of the board; but he shall be subject to removal as hereinbefore provided.

The board, after conference with the managing officer of each institution, shall determine the number of officers and employes to be appointed therein. It shall from time to time fix the salaries and wages to be paid at the various institutions, which shall be uniform, as far as possible, for like service, provided that the salaries of all officers shall be approved in writing by the governor. (102 v. 211.)

SECTION 1843. Books and accounts. Records. Inventory. The board shall cause to be kept in its office a proper and complete set of books and accounts with each institution, which shall clearly show the

nature and amount of every expenditure authorized and made thereat, and contain an account of all appropriations made by the General Assembly and of all other funds, with the disposition thereof. It shall prescribe the form of vouchers, records and methods of keeping accounts at each of the institutions, which shall be as nearly uniform as possible. The board or any member or officer thereof shall have the power to examine the records of each institution at any time. It shall also have the power to authorize its bookkeeper, accountant, or any other employe to examine and check the records, accounts and vouchers or to take an inventory of the property of any institution, or to do whatever may be deemed necessary, and to pay the actual and reasonable expenses incurred in such service upon an itemized account thereof being filed and approved. (102 v. 211.)

SECTION 1844. What officers shall reside in institution. Superintendent, stewards and matrons shall reside in the institution with which they are connected and devote their entire time to its interests. (R. S. 1880.)

SECTION 1845. Assignment of industries. The board may assign among the correctional and penal institutions the industries to be carried on therein, having due regard to the location and convenience thereof with respect to other institutions to be supplied, to the machinery therein and to the number and character of inmates. (102 v. 211.)

SECTION 1846. Price of labor. The board, subject to the approval of the department of finance, shall fix the prices at which all labor performed and all articles manufactured in such institutions shall be furnished to the state or the political divisions and public institutions thereof, as is or may be provided by law, which shall be uniform to all and not higher than the usual market prices for like labor and articles. (107 v. 427; see Sec. 154-37.)

SECTION 1847. Classification of institutions and articles to be manufactured. Penalty. The board shall, with the advice and consent of the * * * department of finance, classify public buildings, offices and institutions and determine the kinds, patterns, designs and qualities of articles to be manufactured for use therein which shall be uniform for each class, so far as practicable. Whenever the board shall give written notice to the state purchasing agent or other official or officials having lawful authority to purchase such article or articles that it is prepared to supply them from any institution under its control, such state purchasing agent or other official or officials shall make any needed purchases of said articles from such institution unless the chief officer thereof, or the board, having been requested to furnish such article or articles shall give notice in writing that the same cannot be furnished within thirty days from the date of the request. Provided, however, that if the state purchasing agent requires such article or articles within thirty days from the day of making such request and so states upon the face of such request, it shall be the duty of the chief officer of such institution or the board to forthwith advise the state purchasing agent whether it will be able to furnish such article or articles within such thirty days. And if it is impossible to furnish such article or articles within such time, the state

purchasing agent may purchase such article or articles in the open market as in other case. The provisions of this section shall not apply to any officer, board or agent of any municipality which maintains an institution that produces or manufactures articles of the kind desired. Any person knowingly violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not to exceed twenty-five dollars for the first offense nor more than one hundred dollars for each subsequent offense. (107 v. 427.) (See Section 154-37.)

SECTION 1848. Cultivation of lands and crops raised. Power to rent. Purchase of materials and supplies. The board or the several managing officers under its direction shall determine and direct what lands belonging to said institutions shall be cultivated, the crops to be raised, and the use to be made thereof, with power to distribute the products among the different institutions. It may require such institutions, when they have proper lands and labor, to undertake intensive agriculture and may rent lands for the production of supplies for any of said institutions which have surplus labor, when it can be done to advantage.

It may direct the purchase of any materials, supplies or other articles for any institution subject to its management from any other such institution at a reasonable market value thereof, to be fixed by the board, and payments therefor shall be made as between institutions in the manner provided by law for payment for supplies.

It may require the bureau of accounting to devise a proper system of accounting for such dealings, as well as for the keeping of its several accounts and transactions. (102 v. 211.)

SECTION 1849. Competitive bidding in purchase of supplies. The board is empowered and required to purchase all supplies needed for the proper support and maintenance of said institutions, by competitive bidding under such rules as the board may adopt. All bids shall be publicly opened on the day and hour and at the place specified in the advertisement. The contract shall be awarded to the lowest responsible bidder, preference shall be given to bidders in localities wherein such institution is located, if the price is fair and reasonable and not greater than the usual price; but bids not meeting the specifications shall be rejected. The board may require such security as it may deem proper to accompany the bids and shall fix the security to be given by the contractor. It may reject any or all bids and secure new bids, if for any reason it is deemed for the best interest of the state to do so, but it may authorize the managing officer of any institution to purchase perishable goods and supplies for use in cases of emergency, in which cases the managing officer of the institution requiring the same shall certify such fact in writing and the board shall record the reasons for such purchases. (102 v. 211.)

(Under the Administrative Code, effective July 1, 1921, powers and duties enumerated by this section were transferred to the department of finance.)

SECTION 1850. Co-operation with boards and managing officers. The secretary of agriculture, the state board of health, and the Ohio State University, respectively, shall co-operate with the board and man-

aging officer of each institution in making such co-operative tests as are necessary to determine the quality, strength and purity of supplies, of the value and use of farm lands, or condition and needs of mechanical equipment. (107 v. 490.)

SECTION 1851. Superintendents, their powers and duties. Each superintendent shall be of good moral character and have skill, ability and experience in his profession. He shall have full control of the institution, and be responsible to the trustees for the management thereof, and for the service of all its employees. He shall appoint necessary teachers, attendants, nurses, servants and other persons, assign their places and duties and may discharge them, keeping a record thereof, and reasons therefor. (R. S. 1880.)

SECTION 1851-1. Qualifications of teachers at state institutions. All teachers who are employed or who shall hereafter be employed in any benevolent, correctional or penal institution of the state, except the State School for the Deaf and the State Institution for Feeble-minded, shall on and after September 1st, 1923, possess such teachers' certificates or have such qualifications and approval as the superintendent of public instruction after conference with the officers in charge of the several institutions may prescribe for the various particular types of service or service in the particular institutions. (109 v. 140.)

SECTION 1851-2. Approval of course of study by superintendent. The courses of study for the instruction and training of all persons in the benevolent, correctional or penal institutions shall be subject to the approval of the superintendent of public instruction. (109 v. 140.)

SECTION 1851-3. Inspection of institutions by superintendent. The superintendent of public instruction shall inspect personally or by deputy at least annually all institutions under the control of the board of administration which employ teachers, and shall make a report on the teaching, discipline and school equipment in these institutions to the proper managing board and to the governor. (109 v. 140.)

SECTION 1852. Duties of matron. The matron, under the direction of the superintendent and not otherwise, shall have general supervision of the domestic arrangements of the institution, and shall devote herself to the comfort and welfare of the inmates. (R. S. Sec. 652.)

SECTION 1853. Rules and regulations. The board shall make rules for the proper execution of its powers and may require the performance of additional duties by the officers of the several institutions so as fully to meet the requirements, intents and purposes of this act and particularly those relating to the making of estimates and furnishing proper proof of the use made of all articles furnished or produced thereat. In case of an apparent conflict between the powers conferred by law upon any managing officer and those conferred by this act upon the board, the presumption shall be conclusive in favor of the board. (102 v. 211.)

SECTION 1854. Estimates for supplies. The board shall require proper officials of the state and in its political divisions and of the institutions thereof, to report estimates for the ensuing year of the amount of supplies required by them, of the kinds which are produced by the state

correctional and penal institutions. It may make regulations for such reports and provide the manner in which such estimates shall be made. (102 v. 211.)

SECTION 1855. Bond of employees. The board shall require its fiscal supervisor-secretary and each officer of every institution under its control who may be charged with custody or control of any money or property belonging to the state or who is now required by law to give bond, to give a surety company bond properly conditioned, in a sum to be fixed by the board, which when approved by the board, shall be filed in the office of the secretary of state. The cost of such bonds, when approved by board, shall be paid from funds available for the board or the respective institutions. (106 v. 27; see section 154-14.)

SECTION 1856. Inventory within 30 days of each institution. Within thirty days after its organization, the board shall require the managing officer of each said institution to make a complete, and accurate inventory of all stock and supplies and other property on hand, with the value thereof, which shall be kept on file in the office of the board. (102 v. 211.)

SECTION 1857. Power to employ engineers, superintendents, etc., fix titles and compensation. The board may employ such mechanical engineers, superintendents and supervisors as it may deem necessary, and fix their titles and compensation which, with all necessary expenses when itemized and approved, shall be paid like other expenses of the board. (109 v. 127.)

SECTION 1858. Detail inmates to labor. The board may detail temporarily from a correctional or penal institution, with the consent of the managing officer thereof, any inmates under its control to perform specified labor. (102 v. 211.)

SECTION 1859. Develop and encourage occupations. Each managing officer shall develop such occupations as shall promote the mental, moral and physical improvement and happiness of the inmates and the board shall aid and encourage such activities so as best to advance the economical and efficient administration of all the institutions, but without prejudice to the primary needs of suitable education for the inmates. (102 v. 211.)

SECTION 1860. Record of inmates to be kept by board. Report on accident or death. The board shall keep in its office, accessible only to its members, secretary and proper clerks, except by the consent of the board or the order of the judge of a court of record, a record showing the name, residence, sex, age, nativity, occupation, condition and date of entrance or commitment of every inmate, patient or pupil in the several institutions governed by it, the date, cause and terms of discharge and the conditions of such person at the time of leaving, and also all transfers from one institution to another, and, if dead, the date and cause. These and such other facts as the board may from time to time require shall be furnished by the managing officer of each institution within ten days after the commitment, entrance, death or discharge of an inmate, patient or pupil. In case of an accident or injury or peculiar death of an inmate,

patient or pupil, the managing officer shall make a special report within twenty-four hours thereafter, giving the circumstances as fully as possible. (102 v. 211.)

SECTION 1861. Repealed. (109 v. 132.)

SECTION 1862. Examination of buildings and grounds by fiscal supervisor. Under the supervision and direction of the board the fiscal supervisor shall examine into the condition of all buildings, grounds and other property connected with said institutions, the methods of book-keeping and storekeeping and all matters relating to its management. He shall study and become familiar with the advantages and disadvantages of each as to location, freight rates and efficiency of farm and equipment, for the purpose of aiding in the determination of the local and general requirements both for maintenance and improvements. (102 v. 211.)

SECTION 1863. Detailed estimate of supplies needed each month. Certified vouchers. For the purpose of proper regulation, recording and auditing the various expenditures of said institutions the managing officers thereof shall prepare and present to the fiscal supervisor in triplicate not less than fifteen days before the first day of each month, and on forms furnished by the board, a detailed estimate of all supplies, materials, improvements and money needed during each month. The fiscal supervisor shall review such estimates, and in writing advise changes, if any, giving his reasons therefor, and present them to the board. The officer making the estimate may appeal to the board on any change so advised, due notice of which shall be given him. Estimates for periods longer than one month may be made in the same manner by the managing officer for staple articles designated by the board or for other supplies. Each estimate may include a contingent fund of not to exceed three per cent. of the total amount for maintenance for the period of the estimate, for which no detailed account need be given in the estimate, but such fund shall be drawn upon only in due form as herein provided and under the rules of the board. The fiscal supervisor shall return to the managing officer one copy of every estimate with the board's approval or alterations in writing, furnish one copy to the state auditor, and file the third in the office of the board. The state auditor shall ascertain that the estimates so received do not exceed the respective appropriations, and shall draw warrants on the state treasurer monthly for the salary and contingent funds for each institution, which shall be placed in the hands of the managing officer thereof. Itemized payrolls or vouchers for all payments shall be drawn in triplicate. One copy shall be kept on file by the managing officer, one be given to the fiscal supervisor, and one to the state auditor, who shall issue a warrant on the state treasurer thereon. Each voucher shall contain a statement of the managing officer or some other bonded officer designated by him, certifying that the supplies and materials purchased conform to the contract and, samples, and that the improvements or repairs made or special services rendered were fully satisfactory; that the approving officer was in no way financially interested in the transaction to which the same relates, and that he has full knowledge of the value of the purchase or work or services in question; such statement to be made according to forms provided by the board;

provided, that payrolls for temporary employments in cases of emergency may be made at any time after the services are performed, but all such payrolls shall be certified by the managing officer in the same manner as other vouchers, who shall also certify that each person named in the payroll actually rendered the services for the time and at the rate charged therein. (102 v. 211.)

SECTION 1864. Payment. Money transferred to state treasurer.

The state treasurer shall have charge of all funds under the jurisdiction of the board and shall pay out the same only in accordance with the provisions of this act; provided that the moneys designated and approved by the board and the state auditor as salary and contingent funds in the monthly estimates shall be placed, not later than the first day of each month, in the hands of the managing officer of each institution, who shall act as treasurer thereof. Money in the hands of the officials of the several institutions at the organization of the board shall be transferred forthwith to the state treasurer. Moneys collected from various sources such as the sale of goods, farm products and all miscellaneous articles, shall be transmitted on or before Monday of each week to the state treasurer and a detailed statement of such collections made to the fiscal supervisor by each managing officer; but the receipts from manufacturing industries shall be used and accounted for as provided in section 32 hereof. (See Section 1866.) (102 v. 211.)

SECTION 1865. List of appropriations for maintenance, etc., filed with fiscal supervisor; per capita allowance. Each managing officer shall before each session of the General Assembly present to said fiscal supervisor an itemized list of appropriations desired for maintenance, repairs and improvements and special purposes, as he considers necessary for the period of time to be covered by appropriations. The fiscal supervisor shall tabulate such statements and present them to the board of administration with his recommendations. It shall be the duty of the board to present the needs of the institutions to the General Assembly. For this purpose a per capita allowance for the inmates, patients and pupils of each of the institutions shall be arrived at and a total allowance for maintenance asked for on the basis of actual number and estimated increase. Every special need shall be itemized and the appropriation asked for that specific purpose. The fiscal supervisor and the board shall furnish to the governor and to the General Assembly such information as may be required regarding appropriations requested. It is the intent and meaning of this section that all requests for appropriations for said institution shall be placed under sole control of the board, and appropriations for the maintenance and for ordinary repairs and improvements thereof shall be made to the board in single sums to be used for the several institutions according to their varying needs.

Hereafter the appropriations for said institutions shall be of three classes:

- (1) Maintenance.
- (2) Ordinary repairs and improvements.
- (3) Specific purposes.

Appropriations for specific purposes shall cover all items for construction, extraordinary repairs and purchase of land and shall be used

only for the institutions and purposes specified therein. (See Section 154-33-34-35, Budget System.) (102 v. 211.)

SECTION 1866. Manufacturing fund and for what purposes used. Equitable portion of earning credited to prisoners. For the purchase of material and machinery used in manufacturing industries, for payment of compensation to employes necessary to carry on said industries, and for providing a fund out of which prisoners confined in penal institutions may be paid a portion of their earnings in the manner hereafter provided, a special appropriation shall be made to be known as the manufacturing fund. Receipts from the sales of manufactured articles shall not be turned into the state treasury, but shall be credited to said fund, to be used for the purchase of further materials, machinery and supplies for such industries; for payment of compensation to employes necessary to carry on said industries, and for payments to convicts or their families as hereinafter provided, and the board of administration shall make a full monthly report of the products, sales, receipts, disbursements and payments to and from said fund to the state auditor.

The board of administration may place to the credit of each prisoner such amount of his earnings as it deems equitable and just, taking into consideration the character of the prisoner, the nature of the crime for which he was imprisoned and his general deportment. Such credit shall not exceed the difference between the cost of maintaining such prisoner and the amount of his labor, in the opinion of the board of administration, is reasonably worth. The earnings so credited to such prisoner shall be paid to him or his family out of said manufacturing fund at such time, in such manner and in such amounts as the board of administration directs. The board of administration may cancel all or any portion of the earnings credited to a prisoner, for violation of rules, want of propriety or any other reason which in its judgment justifies such action. (106 v. 199.)

SECTION 1867. Longview hospital. The state shall continue to provide for the maintenance of Longview Hospital, and the board in making estimates for the maintenance of the institutions under their control shall include a suitable amount therefor. Out of the moneys appropriated for the maintenance of state institutions, the board shall appropriate a proper allowance for said hospital. In all matters relating to the expenditure thereof, the board shall have the same powers as in other like institutions. In all other matters the board of directors of said hospital shall continue to have and exercise the same power and duties now provided by law. (102 v. 211.)

SECTION 1868. Power of board in investigations. The board may make such investigations as it may deem necessary to the performance of its duties and to that end it or any member thereof shall have the same power as a justice of the peace to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. It shall keep a record of such investigations stating the time, place, charges or subjects, witnesses summoned and examined, and its conclusions.

In matters involving the conduct of an officer, a stenographic report of the evidence shall be taken and a copy thereof, with all documents introduced, kept on file at the office.

The fees of witnesses for attendance and travel shall be the same as in the court of common pleas, but no officer or employe of the institution under investigation shall be entitled thereto. Any judge of the probate or of the common pleas court, either in term time or in vacation, upon application of any member of the board, may compel the attendance of witnesses, the production of books or papers and the giving of testimony before said board, or before any member of the board, by a judgment for contempt or otherwise, in the same manner as in cases before said court. (102 v. 211.)

SECTION 1869. Expenses not allowed; when. No expenditures for traveling expenses to other states, or for attending an interstate or national convention or association shall be made by any member or employe of the board of administration or by any officer of an institution under its control unless authority is granted at a meeting of the board by resolution stating the purpose and reason therefor; but such resolution shall not be effective without the written approval of the governor. (See Section 2313-3 G. C.) (102 v. 211.)

SECTION 1870. Annual report; contents. In its annual report, the judicially expended, whether the objects of the several institutions have board shall include a complete financial statement of the various institutions under its control. The report shall state as to each such institution whether the moneys appropriated have been economically and complied with, and whether all parts of the state are equally benefited by said institutions. Such annual report shall be accompanied by the reports of the managing officers and such other information and recommendations as the board may deem proper. (106 v. 512.)
been accomplished, whether the laws in relation to them have been fully

SECTION 1871. Electioneering and contributing money for election purposes prohibited. The board shall make rules and regulations for the strictly non-partisan management of the institutions under its control. Any member or employe of the board or any officer or employe of any institution under its control, who, by solicitation or otherwise, shall exert his influence directly or indirectly to induce any other officer or employe of any such institutions to adopt his political views or to favor any particular person or candidate for office, or who shall in any manner contribute money or any thing of value to any person for election purposes, shall be removed from office or position, by the board in case of an officer or employe and by the governor in case of a member of the board. And no member or officer or employe of the board shall recommend or in any way seek to secure the appointment, employment or promotion of any person at any institution, the intent and purpose of this act being to improve the service and discipline at said institutions by entrusting the same to the managing officers thereof without interference save by the rules, regulations and orders of the board. (102 v. 211.)

STATE SCHOOL FOR THE DEAF

SECTION 1872. Admission of pupils, age and time. The state school for the deaf shall be open to receive such persons too deaf to be educated in the public schools, residents of the state, as the trustees and superintendent deem, from reliable information and examination, to be suitable persons to receive instruction, according to the methods therein employed. No person shall be received under seven years of age or remain longer than thirteen years. No person addicted to immoral habits or who has a contagious or offensive disease shall be received. (99 v. 598.)

SECTION 1873. Admission of blind and deaf children. The state school for the deaf shall also be open to receive such blind and deaf children, residents of the state, as the trustees and superintendent deem to be suitable persons to receive instruction therein. The superintendent may employ suitable teachers, and nurses, and make necessary arrangements for the instruction and care of blind and deaf children admitted. (99 v. 598.)

SECTION 1874. Rules governing admissions of blind and deaf. So far as applicable, the rules and regulations for the admission and education of the deaf shall apply to the blind and deaf, but the trustees may use their discretion as to the age deaf-blind may be received and the time they may remain as pupils. (99 v. 598.)

SECTION 1875. Education of deaf and blind children at home. When deemed by them fit and proper, the trustees shall provide for the education of a deaf and blind child at its home, and shall appoint and direct teachers therefor the same as when the child is placed in the institution. (93 v. 75.)

SECTION 1876. When pupil may be returned to parents or guardian. Pupils admitted into the state school for the deaf may be permitted to remain such portion of thirteen years as their progress justifies. If at any time the trustees and superintendent determine that a child is not making sufficient progress in its school or industrial work to justify its continuance as a pupil, they may return it to its parents, guardian, or the infirmary of the county from which it came. No pupil admitted thereto from a county infirmary or who, after admission becomes a county charge, shall be sent to a county infirmary for the summer vacation. (99 v. 599.)

SECTION 1877. What may be taught such pupils. Shoemaking, printing, book-binding, cutting, fitting and making wearing apparel for females, and such other trades and arts as are found to be adapted to the capacities and wants of the deaf, shall be carried on and taught. The trustees in this behalf shall have regard to the good of the pupils and the economical administration of the school. (99 v. 599.)

SECTION 1878. Management of classes. From among the pupils, male and female, the superintendent shall assign such number from time to time as seems proper, organize them into classes, assign to each class such portions of each day as will best harmonize with their ordinary

studies, and at the same time give sufficient opportunity to the teachers of trades and arts to attend to their instruction. The superintendent and teachers shall meet and consult monthly, make such change in the classes or order of instruction, and adopt such rules in regard thereto as experience suggests, subject to the approval of the trustees. (89 v. 313.)

SECTION 1879. Supervision of classes in trades and arts. The bookbinding shall be under the supervision of the supervisor of public printing. The art of cutting, fitting and making wearing apparel for females shall be under the supervision of the matron, who shall assign to classes in such art from the female pupils such number, from time to time, as seems proper, arranging their classes as provided for in the teaching of other arts and trades. (89 v. 313.)

SECTION 1880. Binding for the state. As far as practicable, the bookbinding for the state shall be done at this institution, and the supervisor of public printing shall have reference to this object in the organization of the business and preparation for work. When the book-binding is let to others, the supervisor may arrange with the contractors to do any part of the work in addition to the work for the state then let, that can be done at the institution on proper terms. If fair rates can not be had from such contractors to employ the pupils engaged in this department, the supervisor may contract for and perform other binding. (77 v. 170.)

SECTION 1881. Monthly report of supervisor. The supervisor shall, monthly, render an account to the auditor of state of moneys earned by this department and, pay into the state treasury moneys received therefrom. In his annual report, he shall state particularly the capacity of the department with reference to the work required by the state. (77 v. 170.)

STATE SCHOOL FOR THE BLIND

For Ohio Board of Administration read Department of Public Welfare.

SECTION 1884. Who may be admitted to school for the blind. The trustees of the state school for the blind may receive in the institution such blind and pur-blind persons, residents of the state, as they and the superintendent are satisfied, from reliable information and examination, are suitable in age and mental capacity to receive instructions by the methods therein pursued. No person shall be received who is addicted to immoral practices, or affected with a contagious or offensive disease. Subject to the approval of the trustees, the superintendent may reject or discharge from the institution any person who has sight sufficient to read common print continuously. (75 v. 150.)

SECTION 1885. Rules for admission of pupils. The regular pupils must be at least six years of age, and none can be admitted under eight years of age, except for special reasons. Pupils admitted under the age of fourteen years may remain until the age of twenty-one years, and pupils admitted between the ages of fourteen and twenty-one years may

remain for a period of seven years, if, in the judgment of the trustees, the character, progress, capacity, and conduct of the pupil in each case justify so long a pupilage. (75 v. 150.)

SECTION 1885-1. Provision for further and higher education. Subject to the approval of the Ohio board of administration, the superintendent may provide for the further and higher education of any pupils who in his judgment are capable of receiving sufficient benefit thereby to render him more efficient as citizens by appointing readers for such persons to read from text-books and pamphlets used in their studies while in attendance as regularly matriculated students in any college, university, technical or professional school located in this state and authorized by law to grant degrees. (103 v. 474.)

SECTION 1886. Persons received to learn trades, in certain cases may return. Persons over twenty-one years of age may be received for one year, for the purpose of learning a trade or employment taught in the mechanical department. They may also receive instruction in one or more studies, if this can be done without interfering with the purpose for which they are admitted. In addition to the one year specified for those over twenty-one years of age, females, over twenty-one years of age may be allowed to remain three years more, if their capacity renders advisable. (75 v. 150.)

SECTION 1887. Trustees may terminate course or dismiss pupils. Subject to the approval of the trustees, the superintendent may permit former pupils to return to the institution for a period not exceeding one year, for the purpose of reviewing or perfecting their studies, but not at an age beyond the oldest period provided for in this chapter. Upon the recommendation of the superintendent at any time, for a sufficient cause, the trustees may terminate the course of any pupil, and, subject to the approval of the trustees, he may dismiss any pupil for persistent disobedience, immoral conduct, or other cause, that renders the person unfit to remain in the institution. (75 v. 150.)

SECTION 1888. Non-residents admitted. Pupils, not residents of Ohio, may be admitted if there is accommodation therefor, upon the payment of such sums and upon such terms as the trustees determine. The money received from such pupils shall be paid to the steward, receipted for by him, certified into the state treasury to the credit of the general revenue fund. The steward must keep a correct record of moneys so received by him in a book prepared for that purpose, which record shall be open for the inspection of any person wishing to examine it. (75 v. 150.)

SECTION 1889. Trustees may purchase books. From appropriations for current expenses, the trustees may expend an amount, not exceeding six hundred dollars, each year, for the purchase of books, maps and other educational appliance, from the American printing house for the blind, for the use of the institution, and gratuitous distribution among the indigent blind of the state, if the purchases can be made from that printing house at prices not exceeding the cost of their production (75 v. 150.)

INSTITUTIONS FOR FEEBLE-MINDED

For Ohio Board of Administration read Department of Public Welfare.

SECTION 1891. Control of institutions for feeble-minded. The department of public welfare as successor of the Ohio board of administration, hereinafter designated as the board of administration or the board, shall manage and govern the institutions for the feeble-minded and shall have full power and authority hereafter to establish, manage, govern and maintain additional institutions for the feeble-minded whenever the necessary funds therefor have been appropriated by the general assembly and are available for such purpose. The board of administration shall have the power and authority, also, to provide for the custody, supervision, control, care, maintenance and training of feeble-minded persons committed to its custody and care, and to pay, in the manner provided by law, the expense thereof out of any funds available therefor. Such persons may be held in custody and control, and may be supervised, cared for, maintained and trained, elsewhere than within the enclosure of an institution, if the board in its discretion shall so determine with respect to any individual or group of individuals, and under such regulations as may be appropriate to carry out the purposes of this section and of section one thousand eight hundred and fifty-nine of the General Code; provided that in all such cases the department shall insure adequate and proper oversight and supervision for the due protection of such persons and of the public. (110 v. 253.)

SECTION 1892. Object and purpose of institutions; education and training. The object of the institutions for the feeble-minded shall be to receive, detain, care for and maintain feeble-minded persons committed to the custody and care of the board of administration and to train and educate such of them received as are capable of being trained and educated, so as to render them more comfortable, happy and less burdensome to society. The inmates of the institution shall be furnished such agricultural and mechanical education as they are capable of receiving and as the facilities furnished by the state will allow. Such other training as the board and the superintendent deem necessary and useful for the welfare of the inmates, and as tending to their proper employment, or as contributing to their development, discipline and support, from time to time, may be added. (108 v. Pt. I, 552.)

SECTION 1893. Who may be admitted; procedure in admission or release; fees, costs, etc. Feeble-minded persons of any age, whether public charges or not, shall be admitted to the institutions for the feeble-minded, provided such persons are of such inoffensive habits as to make them, in the judgment of the board of administration, proper subjects for care and discipline. Such persons shall be committed to the board of administration and admitted to the institutions for the feeble-minded in the same manner and by like proceedings as are provided for the commitment and admission of insane persons to the state hospitals for the insane; and the provisions of chapter 7, division II, title V, part first of the General Code governing and regulating the admission and commitment to, and conveyance and escort to and from the state hospitals for the

insane, the clothing, traveling expenses, care and maintenance of persons adjudged insane, the arrest and return of escaped insane patients, the release of insane patients from the hospitals for the insane on *habeas corpus*, and the record of inquests of lunacy to be made and kept by the probate judge, shall apply to and govern the commitment, custody, care, support, maintenance and release of the feeble-minded, and the same fees, costs and expenses that are allowed and paid in lunacy cases shall be allowed, taxed and paid for similar services in all proceedings related to feeble-minded persons. Provided, however, that the medical certificates mentioned in section 1957 of the General Code shall not, when the same relate to feeble-minded persons, be void after ten days, as stated in said section. When they relate to feeble-minded persons, said certificates shall be valid for an indefinite period. (108 v. Pt. I, 553.)

SECTION 1894. What children given preference. In the reception of feeble-minded persons into the institutions for the feeble-minded, preference and priority, so far as practicable, shall be given to feeble-minded children who are delinquent or dependent, as defined in sections 1644 and 1645, respectively, of the General Code. No prior or separate proceedings under the juvenile court act as provided in chapter 8, title IV, part first of the General Code shall be necessary, however, to the institution of proceedings and commitment to the board of administration for admission to the institutions for the feeble-minded, of a delinquent or dependent feeble-minded child under the age of eighteen years. (108 v. Pt. I, 553.)

SECTION 1895. Disposition of feeble-minded when board unable to provide care and custody. If by reason of the incapacity of the institutions for the feeble-minded to receive additional inmates, the board of administration is unable to provide for the custody and care of any feeble-minded person, said board shall forthwith notify the judge of the probate court in which the proceedings for the commitment of such feeble-minded person are pending, of its inability to receive such feeble-minded person. The probate judge shall thereupon take such action and make such order as he may deem necessary and advisable to provide for the detention, supervision, care and maintenance of said feeble-minded person until such time as he may be received in an institution for the feeble-minded. (108 v. Pt. I, 553.)

SECTION 1904-1. Additional institution for feeble-minded; location by Ohio board of administration. In addition to the institution for feeble-minded, an additional institution of the state for the custody, supervision, control, care, maintenance and training of feeble-minded persons committed to the custody and care of the Ohio board of administration shall be established and located in the northern or in the southern part of the state, at such point as the Ohio board of administration may determine to be most suitable therefor and best adapted to the public convenience and welfare, having regard to the location of the present institution for feeble-minded, the centers of population in the northern and southern parts of the state, respectively, the availability of land suitable for such institution, and due economy in the acquisition of desirable site, provided, however, that nothing herein contained shall

prevent the Ohio board of administration in its discretion from receiving in any of the institutions for feeble-minded, feeble-minded persons committed to its custody and care from any county in the state. (108 v. Pt. I, 430.)

SECTION 1904-2. Acquisition of land and construction of buildings authorized. The Ohio board of administration shall proceed forthwith to acquire by purchase, gift, lease, or appropriation the necessary real estate for the said institution and thereon to establish, construct, furnish and equip such building or buildings and such other improvements and facilities as it may deem necessary and proper for the custody and care of the feeble-minded. In the procuring of plans and specifications and in the letting of contracts for the construction, equipment and furnishing of said building or buildings and of the said improvements and facilities, as well as in the supervision of the construction, equipment and furnishing of the same and in the disbursement of the funds hereinafter appropriated therefor, the Ohio board of administration shall observe and be governed by all and singular the provisions of law relative and pertinent to the purchase and acquisition of land, the construction, equipment and furnishing of such building or buildings, and the disbursement of funds therefor by said board; provided, however, that the Ohio board of administration with the unanimous approval of the state building commission and whenever said commission may deem it more economical so to do, may construct, in whole or in part, any of such buildings or other improvements, and may purchase or furnish such materials, supplies, and labor for the construction, equipment, and furnishing of said buildings, improvements, and facilities as it may deem necessary or advisable, in which event the provisions of section 2314 to 2330 of the General Code, both inclusive, shall not apply. (108 v. Pt. I, 430.)

SECTION 1904-3. Appropriations. The sum of six hundred and fifty thousand dollars is hereby appropriated out of any moneys in the state treasury to the credit of the general revenue fund, not otherwise appropriated, to be used and disbursed by said Ohio board of administration for the purchase of land for the site of said additional institution for the feeble-minded, the making of the necessary improvements thereon, and the construction, equipment and furnishing of such suitable building or buildings as the Ohio board of administration may find necessary. (108 v. Pt. I, 431.)

OHIO SOLDIERS' AND SAILORS' HOME

SECTION 1905. Ohio soldiers' and sailors' home. There shall be an institution under the name of "The Ohio soldiers' and sailors' home," which shall be a home for honorably discharged soldiers, sailors and marines. (83 v. 107.)

SECTION 1909. Who may be admitted to the home. All honorably discharged officers, soldiers, sailors and marines, who served in the regular or volunteer forces of the United States, including the Ohio national guard, who have actively served in the army of the United States, and who have been citizens of Ohio one year or more at the date of making application for admission, who are disabled by disease, wounds or other-

wise, and by reason of such disability incapable of earning their living, and all soldiers of the national guard of Ohio who heretofore have lost, or hereafter may lose an arm or leg, or his sight, or may become permanently disabled from any cause, while in the line and discharge of duty, and are not able to support themselves, may be admitted to the home under such rules and regulations as its board of trustees adopts. (107 v. 617.)

SECTION 1910. Inspection by congress of the United States. The management and control of the home shall be subject to such inspection and supervision as the congress of the United States may require as a condition of making appropriations for its maintenance. A person appointed or designated by congress may make such inspection and exercise such supervision, and, if so required by congress, he may have and exercise the privileges of a member of the board of trustees. (89 v. 40.)

SECTION 1911. What soldiers or sailors shall have preference. In the admission of honorably discharged soldiers who have served the United States government, preference shall be given to those who served in the Ohio military organizations. In the admission of sailors and marines, preference shall be given to those credited to Ohio in the late civil war. (89 v. 39.)

SECTION 1912. How expenses of transportation to the home shall be paid. When a soldier, sailor or marine is entitled to admission into the home, the chairman of the soldiers' relief commission of the county in which such soldier, sailor or marine resides, upon application, may furnish him transportation thereto by the most direct route from his residence. Such transportation shall be paid from the soldiers', sailors' and marines' indigent relief fund of the county. (99 v. 123.)

SECTION 1913. Insane person not admitted to home. An insane person shall not be admitted to the home. In case such person, through misrepresentation as to his condition, be sent thereto, he shall be returned to, and the expense thereof be borne by the county whence he came. (98 v. 80.)

SECTION 1914. Proceedings when the inmate becomes insane. When an inmate of the home becomes insane, the commandant shall file with the probate judge of the county in which it is located substantially the following affidavits:

The State of Ohiocounty, ss.:
, commandant of the Ohio
 soldiers' and sailors' home, being duly sworn, says that he believes that
an inmate thereof,
 is insane; that, in consequence of his insanity, his being at large is
 dangerous to the community, and that he was received into the home
 from...county, on theday of.....19...
A. B.

(89 v. 47.)

SECTION 1915. Hearing by probate judge; cost. When such affidavit is filed, the probate judge shall forthwith determine the sanity of such inmate, and, as far as applicable, the statutes governing in cases of admission to a state hospital for the insane shall apply. The probate

judge shall have the same authority and may receive and order paid the same fees and costs as the probate judge would have in the county in which such inmate was resident at the time of entering the home. (88 v. 139.)

SECTION 1916. Insane inmate shall be charged to hospital district of home county. An inmate, so adjudged insane, shall be enumerated in the quota of persons entitled to admission into the hospital for insane from the county in which he was resident at the time he entered the home. The fees and costs shall be paid from the appropriations from the state for the support of the home. (88 v. 139.)

SECTION 1917. Such inmate shall be transferred to hospital for insane. When an inmate has been so adjudged insane, he shall be transferred to the hospital for insane in the district in which he resided at the time of admission to the home. The quartermaster, or an officer of the home designated by him, shall be appointed by the probate judge to transfer such inmate to the hospital for insane. (98 v. 80.)

SECTION 1918. How expense of hearing and transportation shall be borne. The expenses of the adjudication, of transferring such inmate to the state hospital and of clothing him while there shall be paid by the Ohio soldiers' and sailors' home. In no case shall any part of such expenses be borne by the county in which the home is located, except in case such inmate was a resident of that county at the time of his admission to the home. (98 v. 80.)

MADISON HOME

SECTION 1919. Name of the Madison Home. The home established at Madison, Lake county, shall be under the name, "The home of the Ohio soldiers, sailors, marines, their wives, mothers and widows and army nurses." (97 v. 69.)

SECTION 1920. Who entitled to its benefits. The benefits of the Madison Home shall extend to all those who were inmates thereof at the time it was established as a state institution. No person may be admitted thereto who, at the time it was so established, was an inmate of another home, or institution, established by the state or national government for the care of soldiers, sailors or marines. (97 v. 69.)

SECTION 1921. Who may be admitted. Subject to the provision that preference be given to those who served in Ohio military organizations, the following persons may be admitted to the Madison Home: All honorably discharged soldiers, sailors and marines, who served the United States government in the civil war, from eighteen hundred sixty-one to eighteen hundred sixty-five, who are citizens of Ohio, and who are not able to support themselves; their wives, to whom such soldiers, sailors, and marines were married at any time prior to June first, nineteen hundred five; their widows, to whom such soldiers, sailors and marines were married prior to June first, nineteen hundred five; and the dependent mothers of such soldiers, sailors and marines; residents of Ohio; in case of death of such soldier, sailor or marine, his surviving wife may live in and be supported by the home. (108 v. Pt. I, 625.)

SECTION 1921-1. Limitation as to widows, mothers or nurses of the war with Spain. Subject to the provisions of Section 1921 there may be admitted to the Madison home, not to exceed five widows, mothers or nurses of the war with Spain. (108 v. Pt. I, 626.)

SECTION 1924. Rules and regulations. The board of managers shall make rules and regulations for receiving into, and discharging from the home the inmates thereof, which shall not conflict with the provisions of this or other law of the state. (97 v. 70.)

SECTION 1925. Powers of managers to make contracts. The board of managers may make contracts in its own name for all purposes incident to the home. A donation of property, accepted by it, shall be conveyed in fee simple to the state of Ohio, free from encumbrance or condition, other than it shall be used by the state to carry out the purposes of the home, and, when not necessary for that purpose, be used for some other eleemosynary purpose. Before such property is accepted, the title thereto must be approved by the attorney general. (97 v. 70.)

OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME

This institution is controlled by a separate Board of Trustees and is not under the jurisdiction of the Department of Public Welfare.

SECTION 1931. Ohio soldiers' and sailors' orphans' home. There shall be an institution under the name of "The Ohio Soldiers' and Sailors' Orphans' Home," which shall be a place for the care and education of children of deceased and disabled soldiers and sailors. (94 v. 88.)

Children of soldiers and sailors of the present war may be admitted into the home upon the same conditions as the children of soldiers and sailors of the civil war or the Spanish-American war. Op. Atty. Gen. (108), p. 489.

SECTION 1931-1. Board of trustees Ohio Soldiers' and Sailors' Orphans' Home. There shall be a board known as the Board of Trustees of the Ohio Soldiers' and Sailors' Orphans' Home, who shall have charge and custody of the Ohio Soldiers' and Sailors' Orphans' Home at Xenia, Ohio, which said board shall consist of five members. The governor, with the advice and consent of the senate shall appoint the members of such board upon the passage of this act; one for five years, one for four years, one for three years, one for two years and one for one year, and thereafter each year the governor, with the advice and consent of the senate, shall appoint, for the Ohio Soldiers' and Sailors' Orphans' Home at Xenia, Ohio, one trustee, who shall serve for a term of five years from the ensuing first Monday in April. A vacancy in the office of trustee occasioned by expiration of term, removal or otherwise shall be filled in the same manner as the original appointment, and shall be for the remainder of the term. At any time the governor may remove any trustee with the advice and consent of the senate. During the recess of the senate he may suspend any trustee but shall report his action to the senate at its next session, and, if the senate so advise and consent, such trustee shall be removed, but otherwise he shall be restored to his office. The governor shall designate a person to perform the duties of the suspended trustee

during such suspension. The nomination by the governor and confirmation by the senate of a person to take the place of a trustee in office, shall be a removal of such trustee.

Such board shall govern, conduct and care for such home, the property thereof and the inmates therein as provided in the laws governing "The Ohio Board of Administration" so far as the provisions thereof are not inapplicable and are not inconsistent with the provisions of the laws governing such home.

Three members of such board shall constitute a quorum, but any two may approve accounts for the payment of current expenses, salaries and open contracts previously entered into by the board.

All supplies for such home shall be purchased as provided in section one thousand eight hundred forty-nine of the General Code. (109 v. 128.)

SECTION 1932. What children may be admitted to the home. Under such rules and regulations as they adopt, the trustees shall receive into the home the children and orphans, destitute of means of support and education and residing in Ohio, of soldiers and sailors who died by reason of wounds received or disease contracted while serving in the military or naval forces of the United States, and the children of permanently disabled or indigent soldiers and sailors in like manner destitute. (94 v. 88.)

SECTION 1932-1. Admission of children of members of O. N. G. That the board of trustees of the Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, are hereby authorized and directed to receive into such home the children of all members of the Ohio National Guard whose lives were lost, or who were permanently disabled at any time in the course of active duty in the service of the state, on the same basis and subject to the same laws as other children are admitted to such institution. (106 v. 435.)

SECTION 1933. How long may remain at the home. Unless for good cause sooner discharged, all children admitted to the home shall be supported and educated until sixteen years of age. The trustees may retain such children until they arrive at the age of eighteen years, and members of a graduating class may be retained until the close of the school year. (94 v. 88.)

SECTION 1934. Apportionment admitted from each county. In the admission of children, each county shall be entitled to its proportion according to population, of the entire number the home accommodates, and no more, unless other counties fail to apply within a reasonable time for the admission of their respective quotas. (76 v. 171.)

SECTION 1935. Appointment of clerk. Bond, where filed. On the nomination of the superintendent the board of trustees of the home shall appoint a clerk for the institution who shall hold his office at the pleasure of the board. The duties of the clerk shall be prescribed by the trustees. Before entering upon his duties, the clerk shall give a bond to the state in the sum of five thousand dollars with two or more sureties, approved by the attorney general, conditioned for the faithful performance of the duties of his office. Such bond, with the approval of the attorney general,

and the oath of office indorsed thereon, shall be filed in the office of the secretary of state. (103 v. 533.)

SECTION 1936. What schools shall be established. The trustees shall establish schools for such literary, technical, industrial, art or other education of all pupils therein as is practicable, and make necessary arrangements therefor. Within the grounds of the home, they may establish and maintain shops wherein suitable trades may be taught and practiced in a thorough and comprehensive manner. Subject to their regulations, the superintendent may employ proper teachers, and for cause, dismiss them. (76 v. 171.)

SECTION 1937. Curriculum of studies. The curriculum of studies for pupils more than thirteen years of age shall be such as to assist them most effectively in their future pursuits. The division and assignment into schools and classes shall be so arranged that pupils may receive instruction in approved literary branches at the most practicable hours, whether in evening or half-time schools or in schools during certain sessions only. (76 v. 171.)

SECTION 1938. The institution to be made a model school. Any branch of industry introduced shall be taught and practiced in so thorough and comprehensive manner that the institution shall be considered a model school for these particular branches. (76 v. 171.)

SECTION 1939. Purchase of books, tools, etc., disposition of products. The trustees, and, under their regulations, the superintendent, may purchase necessary books, materials, tools and machinery, and dispose of the productions of the pupils to the best advantage and account for such proceeds and expenditures in the annual report. The trustees may make all necessary arrangements to carry into effect the purposes of this chapter. (76 v. 171.)

SECTION 1940. Pupils may select trade or occupation. Pupils working inside the institution, on their discharge, shall receive net earnings for the preceding two years to be approximated by the trustees, and, under their regulations, by the superintendent. Each pupil may select a trade or occupation in which he wishes to engage, but any pupils remaining in the institution after completion of his or her fourteenth year must devote himself or herself for the time remaining to the learning of one of the provided occupations, except in case of debility or ill health. (76 v. 171.)

SECTION 1941. Duties of superintendent as to certain pupils. Not less than four years before each pupil arrives at the age of sixteen years, the superintendent of the home shall ascertain what trade, if any, such pupil has learned at the home and what trade or business he or she desires to follow in the future. Thereupon the superintendent shall cause to be published in two newspapers printed and of general circulation in the county from which such pupil came, a notice that the pupil desires a situation in such business, and a home in a respectable family, the compensation to be paid to such as the employer may agree upon with the pupil and the superintendent. The superintendent shall answer all communications and inquiries relating thereto and keep record thereof which shall be open to public inspection. (81 v. 96.)

SECTION 1942. Monthly report of superintendent. The superintendent shall keep an account of expenses incurred under the preceding section, and every thirty days submit a full report thereof to the trustees, who shall examine it with all vouchers and, if found correct, the trustees shall order them paid from the appropriation made by the state for the institution. (81 v. 96.)

SECTION 1943. Information concerning discharged pupils. When pupils are discharged, the trustees, through the superintendent, so far as practicable, shall keep in communication with them to enable the trustees to report to the governor and general assembly in regard to these children of the state.

Holding of annual reunions of ex-pupils. To that end the trustees or superintendent shall encourage and provide for the holding of annual reunions of the ex-pupils at the home and invite them to attend as the guests of the home and state, and keep a record showing the names, addresses and occupations of those who attend. Such reunions shall be held during the children's regular vacation season, when the holding thereof will not interfere with the management of the home, and the ex-pupils who attend shall be under the same control and receive the same accommodations as the children and officers of the home. (106 v. 103.)

SECTION 1944. Trustees may place inmate in private family. When, in the opinion of the trustees, the best interests of pupils would be subserved thereby, they may secure homes for them in private families upon such terms as they agree upon, reserving the right to replace them in the home if they deem it for their best interests. (176 v. 171.)

SECTION 1945. Support of children entitled to admission outside of institution. The trustees may contract with the proper officers of any of the children's homes authorized by law in this state, for the support of such children as are by law entitled to admission to the soldiers' and sailors' orphans' home, including those which have become inmates of county infirmaries. In such contracts the trustees shall reserve the right to visit and examine into the condition and treatment of such children in homes. By such contract, the cost per capita shall not exceed the current expense cost of supporting the children at the soldiers' and sailors' orphans' home. The expenses of their transportation from the infirmaries to the home to which they are assigned shall be paid by the county to which they belong. (84 v. 174.)

SECTION 1946. Salaries of officers and employes. The compensation of the officers and employes of the home shall be fixed by the board of trustees. No person, unless he shall have been in the actual military or naval service of the United States and shall have received an honorable discharge therefrom, shall be eligible to hold the position or office of superintendent. Provided, however, that the provisions of this section shall not affect the tenure of the position or office of the present superintendent. (108 v. Pt. I, 617.)

SECTION 1946-3. Superintendent, guardian of the estate of minors. The superintendent of the Ohio Soldiers' and Sailors' Orphans' Home shall be, by virtue of his office, the guardian of the estate of all minors under the age of sixteen years, duly admitted and residing in such home,

whose fathers are deceased and who have no other legal guardians. The superintendent shall be liable on his official bond for the conduct of the guardianship and shall not be required to give additional bond. When any minor whose estate is under the guardianship of the superintendent arrives at the age of sixteen years or is discharged from the home, the superintendent shall file his final account as guardian with the probate judge of the county in which the home is situated, and no fees shall be charged by the court for the filing of such account and discharge as guardian. The provisions of law relating to the guardians of minors shall apply as far as possible to the provisions of this section. (106 v. 497.)

SECTION 1946-4. Additional bond of superintendent. Immediately upon the taking effect of this act the superintendent of said home, now in office, unless a new official bond shall be then given by him, shall give an additional bond in the amount of ten thousand dollars, conditional upon the faithful discharge of his duties as guardian, under the preceding section, for the term covered by his existing official bond, and nothing in said preceding section shall be deemed or held to apply to or alter the conditions of such existing official bond. Any official bond of said superintendent, given after this act shall take effect, shall be liable as provided in section 1 of this act. The premium on such additional bond, if any, may be paid from any proper appropriation for the current expenses of said home. 106 v. 497.)

HOSPITALS FOR THE INSANE

For Ohio Board of Administration read Department of Public Welfare.

SECTION 1947. Names of hospitals. The institutions for the care and treatment of the insane in this state shall be respectively designated as follows: That near Cleveland, as the Cleveland state hospital; that near Columbus, as the Columbus state hospital; that near Dayton, as the Dayton state hospital; that near Athens, as the Athens state hospital; that near Toledo, as the Toledo state hospital; that near Massillon, as the Massillon state hospital; the Longview asylum of Cincinnati, as the Longview hospital. They shall each be under the charge of a separate board of trustees. (91 v. 23.)

(See Section 1835 G. C., which places these institutions under the control of the Department of Public Welfare.)

SECTION 1948. Ohio board of administration may fix or alter hospital districts. The Ohio board of administration may divide the state into districts, for the purpose of regulating the admission of patients into state hospitals for insane named in the preceding section and fix the quota of each county therein, so as to secure equality among the counties in proportion to population as indicated by preceding federal census, and to promote their convenience in this regard. The Ohio board of administration may change the boundaries of such districts, from time to time, as may be necessary and expedient. (103 v. 446.)

SECTION 1949. Action effective on approval of governor. Regulations made under the preceding section shall not be effective until submitted to the governor and approved by him. After such approval, the Ohio board of administration shall notify the judge of the probate court of the counties affected by any change of district or quota. (103 v. 447.)

SECTION 1950. Who may be admitted; non-residents. No person shall be admitted into any such hospital, who is not an inhabitant of the state, except by authority of the Ohio board of administration as provided by law. Within the meaning of this section, no person shall be considered an inhabitant who has not resided in the state one year preceding the date of his or her application. No person is entitled to the benefits of the provisions herein except those whose insanity occurred during the time of his or her residence in the state. The board may direct the discharge of a person when they deem it expedient. (103 v. 447.)

SECTION 1951. Probate judge shall be advised monthly of quota. The medical superintendent of each of the state hospitals shall inform the probate judge of the different counties comprising the district, monthly, of the quota of patients to which such county is entitled and the number in the hospital therefrom. The probate judge at any time may forward an acute case if the quota is not full and the papers and clothing are in compliance with law. (99 v. 325.)

SECTION 1952. Transfer from one hospital to another. If, at any time, any such hospital cannot accommodate the patients of the district to which it is attached, or if the best interests of a patient make his transfer advisable, with the consent and written approval of the superintendents interested, the Ohio board of administration may order the transfer of such patients to the hospital of either of the other districts, which at that time has room for such patients. When such transfer is at the request of relatives or friends of inmates, it shall be at their expense. All other transfers shall be at the expense of the hospital from which they are transferred. Upon the request of the probate judge of any county, the Ohio board of administration may authorize the commitment of an insane person to a hospital located in another hospital district, if the reasons set forth in the application warrant such action. (103 v. 447.)

SECTION 1953. Proceedings for admission of patients. For the admission of patients to a hospital for the insane, the following proceedings shall be had. A resident citizen of the proper county must file with the probate judge of such county an affidavit, substantially as follows: The State of Ohiocounty, ss.:the undersigned, a citizen of.....county, Ohio, being sworn, says that he believes is insane, (or that in consequence of his insanity, his being at large is dangerous to the community.) He has a legal settlement in..... township in this county.

Dated this.....day of.....

A. D..... (75 v. 64.)

SECTION 1954. Warrant and subpoenas. When such affidavit is filed, the probate judge shall forthwith issue his warrant to a suitable

person, commanding him to bring the person alleged to be insane before him, on a day therein named, not more than five days after the affidavit was filed, and shall immediately issue subpoenas for such witnesses as he deems necessary, two of whom shall be reputable physicians, commanding the persons in such subpoenas named to appear before him on the return day of the warrant. If any person disputes the insanity of the party charged, the probate judge shall issue subpoenas for such person or persons as are demanded on behalf of the person alleged to be insane. (75 v. 64.)

SECTION 1955. Probate judge may examine such person out of court. If, by reason of the character of the affliction or insanity, it is deemed unsuitable or improper to bring such person into such probate court, the probate judge shall personally visit such person and certify that he has so ascertained the condition of the person by actual inspection, and all the proceedings as herein required may then be had in the absence of such person. (75 v. 64.)

SECTION 1956. Court shall have certificate of two medical witnesses. Unless for good cause the investigation is adjourned, the judge, at the time appointed, shall proceed to examine the witnesses in attendance. Upon the hearing of the testimony, if he is satisfied that the person so charged is insane, he shall cause a certificate to be made out by two medical witnesses in attendance that the person is insane to the best of their knowledge and belief. The medical witnesses must have at least five years' experience in the practice of medicine, shall not be related, by blood or marriage, to the person alleged to be insane or to the person making the application for commitment, nor have any official connection with any state hospital. The medical certificate shall contain answers to such interrogatories as the Ohio board of administration, with the advice of the superintendents of the several hospitals, prescribes. (103 v. 447.)

SECTION 1957. Form and rules as to medical certificate. The medical certificate form shall be printed by the Ohio board of administration, and not be modified oftener than once each year. Sufficient copies shall be furnished the probate courts of the respective counties. All medical certificates shall be void after ten days from date of issue, if the persons named therein are not admitted to a state hospital within that time. In the same manner there shall be prepared and distributed forms for use in commitments to the Ohio Hospital for Epileptics and to the Institution for Feeble-Minded. (103 v. 448.)

SECTION 1958. Application for admission to hospital. The probate judge, upon receiving the certificate of the medical witnesses, made according to the provisions of the preceding sections, shall forthwith apply to the superintendent of the hospital situated in the district in which such patient resides. At the same time, he shall transmit copies, under his official seal, of the certificates of the medical witnesses, and of his findings in the case. Upon receiving the application and certificate, the superintendent shall immediately advise the probate judge whether the patients can be received, and, if so, at what time. (85 v. 21.)

SECTION 1959. Conveyance of insane persons to hospital. When advised that the patient will be received, the probate judge shall forthwith issue his warrant to the sheriff or to a suitable person commanding him forthwith to take charge of and convey such insane person to the hospital. If the probate judge is satisfied, from proof, that an assistant is necessary, he may appoint one person as such assistant. If the insane person is a female, he shall appoint a suitable female assistant to accompany the sheriff and such insane person to the hospital. (108 v. Pt. II, 1219.)

SECTION 1960. Form of warrant and receipt. The warrant of the probate judge shall be substantially as follows:

The State of Ohio.....county, ss.:

Office of the probate judge of said county.

To.....

All the proceedings prescribed by law to entitle
to be admitted into the hospital for the insane
 having been had, you are commanded, forthwith, to take charge of and
 convey said
 to the hospital for insane, at.....and you are
 authorized to take
 as assistant; after executing this warrant you will make due return
 thereof to this office. Witness my hand and official seal this.....
 day of.....A. D.....

.....Probate Judge.

Upon receiving such patient, the superintendent shall endorse upon the warrant, a receipt substantially as follows:

Hospital for insane at.....

.....A. D.

Received this day, of.....
 the patient named in this warrant.

.....Superintendent.
 (85 v. 21.)

SECTION 1961. Relatives may keep patient. The warrant, with the receipt of the superintendent thereon, shall be returned to the probate judge and filed by him with the other papers relating to the case. Until a certificate is furnished by a medical witness that the patient is free from all infectious diseases and from vermin, the probate judge shall refuse to make such application to the superintendent. The relatives of a person charged with insanity, or found to be insane, in all cases, may, with the approval of the probate court, take charge of and keep such person if they desire to do so. In such case, the probate judge, before whom the inquest has been held, may deliver such insane person to them. (107 v. 403.)

SECTION 1962. Patients shall have proper clothing. If not otherwise furnished, the probate judge shall supply each patient sent to a hospital for the insane with proper clothing, which shall be paid for on his certificate and the order of the county auditor from the county treasury. Such clothing shall be new or as good as new, the woollens of dark

color, and with such patient be delivered in good order to the superintendent. The superintendent will not be bound to receive the patient without such clothing. (75 v. 64.)

SECTION 1963. What shall constitute proper clothing. The clothing required by the preceding section is as follows:

For a male patient, a coat, vest, and two pairs of pantaloons, all of woolen cloth, two pairs of woolen socks, two pocket handkerchiefs, two cravats, one hat or cap, a pair of shoes or boots, a pair of slippers, three cotton shirts, two pairs of drawers, two undershirts, and an overcoat or outside garment sufficient to protect him in severe weather;

For a female, two substantial gowns or dresses, two flannel petticoats, two pairs of woolen stockings, one pair of shoes, one pair of slippers, two handkerchiefs, a good bonnet, two cotton chemises, and a large shawl or cloak. (75 v. 64.)

SECTION 1964. When a patient may be discharged. On consent and advice of the trustees, the superintendent may discharge any patient from a state hospital for the insane, when he deems such discharge proper and necessary. No patient who in the judgment of the superintendent has homicidal or suicidal propensities shall be discharged. If in the opinion of the superintendent, the condition of the patient at the time of discharge justifies it, he may permit him to go to his home, or leave the institution unattended. (97 v. 52.)

SECTION 1965. Traveling expenses of patient. If the patient is not financially able to bear his own expenses, the superintendent may furnish him a sufficient sum, not exceeding twenty dollars, to pay his traveling expenses, and charge it to the current expense fund of the institution. (97 v. 52.)

SECTION 1966. Discharge of patient requiring escort. In cases requiring an escort, if neither the patient nor his friends are financially able to bear the expense of his removal, the superintendent shall give notice to the probate judge of the county of which the patient is an inhabitant, who shall forthwith issue his warrant to a suitable person, giving the friends of patients the preference, which shall read as follows:

The State of Ohio.....county, ss.:

Office of the probate judge of said county.

The proper authority having directed that.....
....., a patient from this county, in the state
hospital for the insane atbe removed therefrom,
you are commanded forthwith to remove such patient and return him to
his home in this state.

Witness my hand and official seal this.....day of
.....19.....

.....A. D.Probate Judge.
(97 v. 52.)

SECTION 1967. Fees and expenses. Upon receipt of the warrant, the sheriff or suitable person to whom directed shall execute and return it to the probate judge, by whom it was issued, showing how it was executed and the date the patient was delivered to the hospital. (108 v. Pt. II, 1220.)

SECTION 1968. Absence from institution on trial visit. When the superintendent deems it is for the best interest of a patient, who has no homicidal or suicidal propensities, he may permit such patient to leave the institution on a trial visit which shall not exceed ninety days. Such patient, if necessary, may be returned at any time within such period without further legal proceedings. (97 v. 52.)

SECTION 1969. Expenses of return from trial visit. The removal of a patient on such trial visit shall be made in the manner provided for removal in case of discharge. If neither the patient nor friends are financially able to bear the expense of a necessary return from such visit, the return shall be made on the warrant of the probate judge as herein provided in case of discharged patients in like circumstances. (97 v. 52.)

SECTION 1970. Superintendent to report death, escape, etc., to probate judge. Immediately thereafter, the superintendent shall report the removal, death, escape or discharge of any patient, or return of an escaped patient, to the probate judge of the county from which such patient was committed. In case of death, he shall also notify one or more of the nearest relatives of the deceased patient, if known to him, by letter or telegraph, as to him seems best. If the place of residence of such relative is unknown to the superintendent, immediately upon receiving notification, the probate judge shall in the speediest manner possible notify such relatives if known to him. (78 v. 102.)

SECTION 1971. When discharged, superintendent may furnish patient clothing. When a patient is discharged, as cured, the superintendent may furnish such patient with suitable clothing and a sufficient sum of money to pay his or her actual traveling expenses to the township in the county from which he or she was sent, not in any case to exceed twenty dollars. (78 v. 102.)

SECTION 1972. Who may be admitted on voluntary application. A person in an incipient stage of mental derangement may apply for admission to and treatment in the state hospital for the district in which he or she resides. A person in an incipient stage of epilepsy may apply for admission to and treatment in the Ohio hospital for epileptics. The superintendent of such hospital may receive such person as a patient therein for not more than sixty days, if from his own examination and the written statement of a reputable physician familiar with the applicant's condition and which covers the interrogatories and answers prescribed by the state board of charities in other applications, he is satisfied that the applicant is in an incipient stage of mental derangement or epilepsy, in need of such treatment as the hospital affords, and likely to be benefited thereby. (99 v. 326.)

SECTION 1973. Applicant, how must apply. An applicant under the preceding section must be an inhabitant of this state, as defined in this chapter in case of other applications and able to appreciate the reason for and purpose of his application. The applications must be in writing, signed by the applicant, and in such form as the superintendent prescribes. The number of persons cared for as patients in any hospital under this and the preceding section at any time shall not exceed five. (99 v. 326.)

SECTION 1974. Exception when quota of county is filled. Nothing in the preceding two sections shall authorize the admission of a patient to a hospital from any county having persons already adjudged insane by the probate court, who are waiting admission to such institution. (95 v. 79.)

SECTION 1975. Proceeding when a person becomes again insane. When a person, discharged from a hospital for the insane as cured again becomes insane, before he or she can be admitted to a hospital for the insane, the same proceedings shall be had as in case of an original application for the admission of patients to a hospital. (93 v. 150.)

SECTION 1976. Benefit of habeas corpus. All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity must be decided at the hearing. If the judge decides that such person is insane, the decision shall be no bar to the issuing of the writ a second time, if it is alleged that such person has been restored to reason. (75 v. 64.)

SECTION 1977. Papers in case of inquest shall be preserved. In cases of inquest held under the provisions of this chapter, the probate judge shall file and preserve all papers left with him, and make such entries upon his docket as, together with the papers so filed, will preserve a perfect record of each case tried by him. (75 v. 64.)

SECTION 1978. Patient escaping shall be arrested. If a patient escapes from a hospital for the insane, and returns to the county whence he was committed, the sheriff of the county, when notified by the superintendent, shall forthwith arrest and return him to the hospital. For such service he shall be paid the fees allowed by law for the commitment of insane persons to hospitals, which shall be paid by the steward on certificate of the superintendent. (75 v. 64.)

SECTION 1979. Bond required when patient discharged at request of friends. If the friends of a patient ask his discharge from the hospital, the superintendent may require a bond to be executed to the state in such sum and with such sureties as he deems proper, conditioned for the safe keeping of the patient. No patient charged with or convicted of homicide shall be discharged without the consent of the superintendent and board of trustees. (75 v. 64.)

SECTION 1980. Prosecuting attorneys shall attend to suit. Prosecuting attorneys shall attend to all suits instituted on behalf of hospitals for the insane. (75 v. 64.)

SECTION 1981. Record, fees, costs and expenses in lunacy cases. The probate judge shall make a complete record of all proceedings in lunacy. The costs and expenses to be paid under the provisions of this chapter, in addition to fees and expenses otherwise provided for, shall be as follows: To each of the two physicians designated by the court to make examination and certificate, five dollars in full for all services rendered; to the person, other than the sheriff or his deputies, for taking an insane person to a state hospital or removing one therefrom upon the warrant of the probate judge, the actual necessary expense incurred, specifically itemized and verified by his oath and approved by the probate judge; to one assistant to convey to the hospital, when authorized by the

probate judge, his actual necessary expense incurred, specifically itemized and verified by his oath and approved by the probate judge. (109 v. 175.)

SECTION 1982. Fees and expenses paid from county treasury. The fees and expenses enumerated in the preceding section, together with all costs in the probate court, shall be paid from the county treasury upon the certificates of the probate judge. (109 v. 42.)

SECTION 1983. Definition of terms. The terms "insane" and "lunatic," as used in this chapter, include every species of insanity or mental derangement; and term "idiot" is restricted to a person foolish from birth, or supposed to be naturally without a mind, a person with a family is one who has a wife and child or either; the words "needy circumstances," when applied to a person without a family, means one whose estate, after the payment of his debts, and excluding therefrom such part as is exempt from execution, is worth less in cash than five hundred dollars, and the same words, when applied to a person having a family, mean one whose estate, so estimated, is worth less in cash, after the payment of his debts and the support of his family, for one year, than one thousand dollars. When such words are applied to a married woman, her estate, and that of her husband, shall be so estimated, and the amount shall determine the question whether she is in needy circumstances or not, within the meaning of this chapter. (75 v. 64.)

LIMA STATE HOSPITAL

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 1984. Name of hospital. The hospital for insane at Lima shall be known as the Lima state hospital. (98 v. 236.)

SECTION 1985. Who may be admitted. The Lima state hospital shall be used for the custody, care and special treatment of insane persons of the following classes:

1. Persons who become insane while in the state reformatory or the penitentiary.
 2. Dangerous insane persons in other state hospitals.
 3. Persons accused of crime, but not indicted because of insanity.
 4. Persons indicted, but found to be insane.
 5. Persons acquitted because of insanity.
 6. Persons adjudged to be insane who were previously convicted of crime.
 7. Such other insane persons as may be directed by law. (98 v. 236.)
- See Sections 13577; 13608; 13614; 13679.

SECTIONS 1986 to 1991 relate to Building Commission.

SECTION 1992. Admission of inmates during period of construction. Inmates may be admitted to the hospital to such extent as they may be safely and properly kept. Such inmates shall be admitted as hereinafter provided, but preference must first be given to insane criminals. (98 v. 237.)

SECTION 1993. Transfer to Lima state hospital, when. The superintendent of a state hospital for insane may make application to the Ohio board of administration for an order to transfer to the Lima state hospital of any or all inmates thereof that exhibit dangerous or homicidal tendencies, rendering their presence a source of danger to others. The board, upon satisfaction that such order is advisable, may order the transfer of such persons to the Lima state hospital. (103 v. 448.)

SECTION 1994. Proceedings to make such transfer. In case a patient of another state hospital at any time exhibits such dangerous or homicidal tendencies, the same proceedings may be instituted and had, and he may be transferred to the Lima hospital in the manner herein provided. The expenses of transferring an inmate shall be paid by the hospital from which he is transferred. (98 v. 238.)

SECTION 1995. Disposition of insane convict after expiration of sentence. If the insanity of an inmate, serving sentence, in the hospital, continues upon the expiration of his sentence, within five days after the expiration of such sentence, the superintendent shall make application to the probate judge of the county in which the institution is situated for an order to retain such person in the hospital until he is restored to reason and mail a written notice that he made such application to one or more friends or relatives of the inmate, if their address is known. (98 v. 239.)

SECTION 1996. Examination by probate court. Upon receipt of such application, the probate judge shall notify such alleged insane person, and call two physicians not related by blood or marriage to such person or to the person applying for such certificate and not officially connected with the hospital who has been in actual practice of his profession for at least three years, and also in his discretion call other creditable witnesses. If the judge certifies that satisfactory proof of insanity of the person examined has been adduced, he shall direct his retention in such hospital until restored to soundness of mind. The form of commitment shall be substantially that required for the commitment of inmates to other state hospitals. (98 v. 239.)

SECTION 1997. Powers of court in such examination; expenses. The probate judge in such examination may compel the attendance of witnesses, file certificates of physicians taken under oath and other papers and enter the proper order in his journal. He shall report the result of the proceedings to the auditor of state, who shall audit, and issue his warrant to the treasurer of state for the payment of the expenses thereof, from funds appropriated for the prosecution and transportation of convicts. (98 v. 239.)

SECTION 1998. Discharge of inmates not convicts. The superintendent may discharge an inmate, not under sentence for crime, who, in his judgment, is recovered, or who has not recovered, but whose condition has improved to such extent that his discharge will not be detrimental to the public welfare or injurious to him. Before ordering such discharge, the superintendent shall ascertain that some friends will properly care for him at his home. (98 v. 240.)

SECTION 1999. Expenses for clothing. The clothing of convicts transferred to such hospital from the penitentiary or state reformatory

and of those held at the hospital because of insanity after expiration of sentence, shall be furnished by the hospital. In all other cases, such clothing shall be furnished in the manner provided for inmates of other state hospitals. (98 v. 240.)

SECTION 2000. Return of escaped inmates. In case an inmate escapes, the superintendent shall take all proper measures for his apprehension, and, for that purpose, may offer a reasonable reward. If at the time of his escape, an inmate is a convict and is retaken, the time between such escape and recapture shall not be computed as part of the term of imprisonment, but he shall remain in the hospital a sufficient length of time after the term of his sentence to equal the period of time he was absent by reason of such escape. (98 v. 240.)

SECTION 2001. Serving of civil process on inmates. A citation, order or process required by law to be served on an inmate of the Lima hospital shall be served only by the superintendent in charge, who shall make return thereof to the court from which it issued. Such service and return shall have the same force and effect as if made by the sheriff of the county. (98 v. 240.)

SECTION 2002. Inmates not to execute contracts, etc. No inmate in such hospital may execute a contract, deed or other instrument unless it has been approved and allowed by the court committing him to the hospital, by an order entered on the record. A certified copy of such order shall be furnished by the superintendent at the time of the execution of such contract, deed or instrument. (98 v. 241.)

SECTION 2003. Who shall be committed to the Lima hospital. When in an inquest of lunacy a judge of the probate court finds to be insane a person theretofore convicted of arson, assault, rape, robbery, burglary, homicide, or attempt to commit such acts, he shall commit such person to the Lima state hospital if ready for the reception of inmates, which fact shall be certified to the courts by the governor, and secretary of state. (98 v. 239.)

See Sections 13577; 13608; 13614; 13679 G. C.

LONGVIEW HOSPITAL

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2004. Name; governing officers. Longview hospital shall be governed and conducted by a board of five directors, a superintendent, assistant physicians, steward and other needed officers. (75 v. 93.)

SECTION 2005. Directors; how appointed; term; vacancy. The directors of Longview hospital must be residents of Hamilton county. Of such directors, two shall be appointed by the governor, with the advice and consent of the senate, one by the judges of the court of common pleas, one by the judge of probate court, and one by the commissioners of Hamilton county. Each year a director shall be appointed and shall hold his office for the term of five years, and until his successor is appointed and qualified. A vacancy in the board caused by death, resignation or otherwise, shall be filled for the unexpired term by appointment by the

officer or officers who appointed the member whose place has become vacant. (75 v. 93.)

SECTION 2006. Shall be allowed their necessary expenses. The directors must discharge their duties without compensation, except that they shall be paid for their loss of time and necessary expenses while actually engaged therein, not to exceed two hundred and fifty dollars per annum, which shall be paid from the county treasury, on the allowance of the county commissioners, upon the warrant of the county auditor. (75 v. 93.)

SECTION 2007. Organization; compensation of officers and employees. The directors shall elect a president and a secretary from their own number, appoint a superintendent for the hospital, and on the nomination of such superintendent, a steward, assistant physician, and other necessary officers and employees. Subject to the approval of the commissioners of Hamilton county, the directors may fix the salaries and compensation of such appointees. (75 v. 93.)

SECTION 2008. Shall visit the hospital and approve accounts of steward. Each week one or more of the directors shall visit the hospital, and all of them each month. With the superintendent, they shall monthly, examine the accounts of the steward, and certify their approval, or otherwise, on the same page with his monthly balances. (75 v. 93.)

SECTION 2009. Shall make record of their proceedings, etc. The directors shall make a record of their proceedings at all meetings, in a book to be kept for that purpose. At their annual meeting they shall make a report to the governor of the condition and wants of the hospital, which must be accompanied by a full and accurate report of the superintendent, showing the annual cost per capita of the inmates, the percentage of admissions, discharges, and cures, and a detailed account of moneys received and paid out by the steward. At the same time, they shall transmit a copy of their report and the accompanying documents to the director of public service of the city of Cincinnati, and another to the board of county commissioners of Hamilton county. (75 v. 93.)

SECTION 2010. Annual meeting, quorum. On the first Tuesday of November, in each year, the directors shall hold their annual meeting at the hospital. Special meetings for the appointment of resident officers, or for the transaction of general business, may be held in a convenient place, upon the written request of the president, or two members of the board made to each of the other directors three days before the time appointed for the meeting, and contain a statement of the object for which the meeting is called. Three members of the board shall constitute a quorum for the transaction of business, and no order, resolution, or appointment of the board will be valid, unless concurred in by at least three members, and entered on the record. (75 v. 93.)

SECTION 2011. Directors may remove officers. The board of directors may remove any resident officer of the institution, except the superintendent, and may remove him for gross neglect or refusal to discharge the duties devolving upon him, or for incompetency or misconduct, rendering it improper for him to remain longer at the head of the hospital.

It may also direct the discharge of a patient upon the recommendation of the superintendent. (75 v. 93.)

SECTION 2012. May suspend officer when charges are preferred. When charges are preferred against the superintendent, or other resident officer of the institution, the board of directors immediately may suspend such superintendent, or officer, and proceed to investigate him. The board may compel the attendance of witnesses and the production of books and papers, and the president may administer necessary oaths. The officer so suspended immediately shall deliver up all books, papers, keys, and other property of the hospital in his possession to a person designated by the board. The failure or refusal of the superintendent, or other officer, to comply with such order of the board shall be sufficient cause for his removal. (75 v. 93.)

SECTION 2013. Superintendent; qualifications; duties. The superintendent of the hospital shall be a physician of acknowledged skill and ability in his profession. He shall be the chief executive officer of the institution, reside therein, and hold his office for the term of five years, unless removed, as provided in the preceding two sections. He shall have the entire control of the medical, moral, and dietetic treatment of the patients, and see that the resident officers discharge their duties. He shall employ or direct the employment of attendants, nurses, servants, and such other persons as he deems necessary for the efficient and economical management of the hospital, assign them their places and duties, and may discharge any of them. He may remove or suspend any resident officer or employe, but immediately shall report the fact and his reasons therefor, to the board of directors. (75 v. 93.)

SECTION 2014. Assistant physicians. The assistant physicians shall have such character and qualifications as to be able to perform medical duties of the superintendent. (75 v. 93.)

SECTION 2015. Duties of the steward. Under the direction of the superintendent, the steward shall keep the accounts, pay those employed in and about the hospital, and have a personal superintendence of the farm, garden, and grounds, and perform such duties as are assigned him by the superintendent or board of directors. Except sums received from the county treasury on the warrant of the county auditor, he shall pay into the county treasury moneys received by him, from whatever source derived, which shall be credited by the treasurer of the county to the hospital fund. (75 v. 93.)

SECTION 2016. Bond of steward. The steward shall execute a bond, with two or more sufficient sureties, to be approved by the directors, in the sum of five thousand dollars, conditioned that he will faithfully perform the duties of his office, and pay over and account for all moneys that come into his hands as such steward. (75 v. 93.)

SECTION 2017. Further duties of the steward. From time to time, upon the order of a majority of the directors, the county auditor shall issue a warrant upon the county treasurer for the payment of a sum not exceeding two thousand dollars, to meet current expenses. The steward shall keep an accurate account, in detail, in a proper book, open to the inspection of the directors and superintendent, of all sums paid from the

money so advanced by the treasurer, and shall settle with the superintendent and directors, monthly, or oftener if required, and, upon such settlement, shall account for all moneys received by him, a copy of which must be filed with the auditor before another warrant is issued. (75 v. 93.)

SECTION 2018. Qualifications for admission. The hospital shall be open for the admission of insane persons over the age of seven years, having a legal settlement in the county of Hamilton, but no person shall be entitled to admission unless he became insane after acquiring such legal settlement. (75 v. 93.)

SECTION 2019. Inmates shall be maintained at the expense of the county. Inmates of the hospitals shall be maintained therein at the expense of Hamilton county, but the superintendent shall enter in a book kept for that purpose, the names of patients whose friends desire to contribute to their expenses. On the first Monday of each month, he shall make bills against such patients, severally, for the amount due the hospital to date, and present them to the steward, who shall collect, and place the money in the county treasury to the credit of the hospital. (75 v. 93.)

(Under Section 1867 G. C., the State provides for the maintenance of Longview and collections for the support of patients are deposited to the credit of the General Revenue Fund.)

SECTION 2020. Proceedings to obtain admission. For the admission of inmates into the hospital, the following proceedings must be had: A resident citizen of Hamilton county shall file with the probate judge thereof an affidavit, substantially as follows:
The State of Ohio, Hamilton county, ss.:

The undersigned, a citizen of Hamilton county, Ohio, being sworn, says that he believesto be insane, and a fit subject for the Longview hospital; he is a resident of Hamilton county, has a legal settlement in.....township. These facts are known by.....and.....(naming at least two persons.) (75 v. 93.)

SECTION 2021. Warrant. When such affidavit is filed, the probate judge forthwith shall issue his warrant to the sheriff, or some other suitable person, commanding him to bring the person alleged to be insane before him, on a day in such warrant named, not more than five days after the affidavit was filed, immediately issue subpoenas to such witnesses as are named in the affidavit and a physician designated by the judge, commanding them to appear before him, on the return day of the warrant. If any person disputes the insanity of the person so charged, the judge shall also issue subpoenas for such persons as are demanded on his behalf. (75 v. 93.)

SECTION 2022. Examination. Unless for good cause the investigation is adjourned, at the time appointed, the judge shall proceed to examine the witnesses in attendance. If upon hearing the testimony, he is satisfied that the person so charged is insane, and is included in the class enumerated in this chapter, he shall cause a certificate to be made by the physician, setting forth the name, age, and residence of the patient, with a concise history of the case, medical treatment pursued, supposed cause

of the disease, and such other information as is deemed useful. (75 v. 93.)

SECTION 2023. How patient taken to hospital. Upon receiving such certificate the probate judge, forthwith shall transmit a copy thereof, and his finding in the case, under his official seal, to a suitable person, giving the relatives of the insane person the preference, who immediately shall take charge of and convey such patient to the hospital, and return therefor to the judge, a receipt of the superintendent to be filed with the other papers in the case. (75 v. 93.)

SECTION 2024 Proceedings for discharge of patient; form of warrant, proviso. At any time, an inmate of the institution may be discharged therefrom by the superintendent, with the consent of the directors. When an inmate of the hospital is cured, the superintendent shall discharge him forthwith, and may furnish him with suitable clothing and a sum of money not exceeding ten dollars, if deemed necessary. When pauper idiots and harmless incurable insane persons are discharged, the superintendent shall issue his warrant to a suitable person, which warrant must be substantially as follows:

The State of Ohio, Hamilton county, ss.:

The proper authority having directed the discharge of A. B., an inmate of Longview hospital, you are hereby commanded to remove the inmate to the county infirmary.

Witness my hand and official seal this.....day of
A. D.
A. B., Superintendent.
 (80 v. 103.)

SECTION 2025. Execution of warrant. Upon receipt thereof, the person to whom directed shall forthwith execute such warrant, and the superintendent of the county infirmary shall receive the inmate. (80 v. 103.)

SECTION 2026. Return of unmanageable inmate. Should a person so sent to the county infirmary become unmanageable, the superintendent thereof may return him to Longview hospital, upon the approval of the board of infirmary directors. The cost of maintaining the person thus returned, shall be paid from the hospital fund, and not exceed the average cost of maintaining the inmates of the infirmary. All such discharged inmates sent to the hospital from within the corporate limits of the city of Cincinnati shall be sent to, and received by the superintendent of the city infirmary as an inmate. (80 v. 103.)

SECTION 2027. Papers in case of inquest shall be preserved. In a case of inquest, held under the provisions of this chapter, the probate judge shall file and carefully preserve all papers relating thereto, and make such entries as, together with the papers filed, will preserve a complete record thereof. (75 v. 93.)

SECTION 2028. Inmates escaping shall be returned. If an inmate escapes from the hospital, the superintendent shall forthwith cause him to be arrested and returned. If an inmate dies, the superintendent shall notify the relatives, if known to him. (75 v. 93.)

SECTION 2029. Action for debts due the hospital. For all debts due the hospital, an action may be maintained in the name of the county of Hamilton. All money due the hospital, upon the warrant of the county auditor, shall be paid into the county treasury for the use of the institution. The prosecuting attorney of Hamilton county shall attend to suits instituted on behalf of the hospital. (75 v. 93.)

SECTION 2030. Official seal of the hospital. The superintendent of the hospital shall provide an official seal therefor, upon which shall be the words "Longview Hospital, State of Ohio." The impression of such seal to a certificate, order, or account, to which the name of the superintendent is attached, shall be prima facie evidence that the name is the handwriting and proper signature of the superintendent. (75 v. 93.)

SECTION 2031. Costs and expenses; how paid. That all costs and expenses under this chapter shall be governed by the provisions of section 1981. (101 v. 359.)

SECTION 2032. Penalties. If the probate judge, or any other person charged with duties under this chapter, neglects, or refuses to discharge any of them, he shall forfeit a sum not to exceed fifty dollars, to be recovered for the use, and benefit of the hospital, in a civil action, conducted in the name of the county of Hamilton, as in case of a debt due the hospital, or he may be removed from his office in the same manner as for other neglect of duty. (75 v. 93.)

SECTION 2033. Hospital, how to be supported. The hospital shall be supported, and the salaries of its officers paid, from a sum consisting of moneys which may come into the treasury of the county, from whatever source, applicable to the support of insane persons in the county, and of appropriations, from time to time, made by the state for the support of this hospital, which appropriations shall bear the same proportion to the appropriations for the other hospitals for insane of the state, as the population of Hamilton county bears to the population of the state, exclusive of such county, as ascertained by the federal census immediately preceding the making of the appropriation. (See Section 1867 G. C.) (75 v. 93.)

SECTION 2034. County commissioners levy tax. To aid and support this institution, the commissioners of Hamilton county may levy a tax, not exceeding three-tenths of one mill on the dollar, upon the taxable property of the county. (75 v. 93.)

SECTION 2034-1. Authority to lease and ultimately purchase Longview hospital. The Ohio board of administration, in behalf of the state, and the county commissioners of Hamilton county, in behalf of said county, are hereby authorized and empowered to contract for the rental and use, and to provide for the ultimate purchase by the state for a hospital for the insane, of the property now owned by Hamilton county and occupied and used as the Longview hospital for the insane and the county infirmary, or so much thereof as in the judgment of the board of administration may be needed, subject to the terms and conditions of this act. (103 v. 754.)

SECTION 2034-2. Lease and rental limitations. Until an agreement is reached between the Ohio board of administration and the commis-

sioners of Hamilton county as to the value of the property above described or an award is made as hereinafter provided, the board of administration may lease said property from the county commissioners at a rental not to exceed sixty thousand dollars per annum. Such rental shall be paid from any fund set apart for, and under the control of, the Ohio board of administration on the order of said board and the warrant of the auditor. After an agreement as to value is reached or an award thereof made, the state shall be credited on the first installments of rent thereafter to be paid with any excess paid by the board of administration prior to such agreement or award over the rental fixed thereby. (103 v. 754.)

SECTION 2034-3. Submission to arbitration on failure of authorities to agree. If the board of administration and county commissioners cannot agree upon a price to be paid and received for said property not to exceed one million five hundred thousand dollars, a board of arbitration and award consisting of three members shall be constituted and appointed as follows: One to be appointed by the Ohio board of administration; one to be appointed by the board of county commissioners of Hamilton county, and the third to be selected by the first two. On any question arising before such board of arbitration and award the agreement of two members shall be final and the act of the board. It shall be the duty of the board of arbitration and award to survey the lands and buildings owned by the county of Hamilton and used for the Longview hospital and the county infirmary, or so much thereof as in the judgment of the board of administration may be needed, and ascertain and determine their true value in money and make award thereof, which award shall be certified to the Ohio board of administration and the commissioners of Hamilton county. The amount fixed by the board of arbitration and award as the true value of such property shall be the price at which the state may purchase, and four per centum thereof shall be the annual rental to be paid by the state, which rental shall be paid in semi-annual installments. (103 v. 754.)

SECTION 2034-4. Provision for payment of rental and ultimate purchase. The Ohio board of administration shall include in its estimates provision for the payment of such rental and the ultimate purchase of such property. Any money allowed and appropriated by the general assembly for the part payment of the purchase price of such property shall be paid by the treasurer on the warrant of the auditor directly to the commissioners of Hamilton county and by them be credited to the sinking fund of the county. Upon any payment on the principal sum of the value of such property the rental shall be proportionately reduced. (103 v. 755.)

SECTION 2034-5. Compensation of board of arbitration. The board of arbitration and award shall be paid a reasonable compensation and its expenses, not to exceed two thousand dollars in all, from the funds set apart for the Ohio board of administration, upon the order of said board of administration and the warrant of the auditor. (103 v. 755.)

SECTION 2034-6. Use of "The Longview State Hospital." Said property when rented or acquired by the state of Ohio shall be used and maintained as a hospital for the insane to be known as "The Longview State Hospital" and the Ohio board of administration shall have all the

powers with respect thereto conferred as to the institutions named in section 1835 of the General Code and by title 5, division 1, chapter 2 of the General Code. (103 v. 755.)

SECTION 2034-7. **When deed shall be made and delivered.** Upon payment of the full principal sum of the value of said property, the commissioners of Hamilton county shall execute and deliver a warranty deed to such property to, in the name of, the state of Ohio. (103 v. 755.)

OHIO HOSPITAL FOR EPILEPTICS

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2035. **Ohio hospital for epileptics.** The asylum for epileptics and epileptic insane, at Gallipolis, shall be known as the Ohio hospital for epileptics, and shall be under the control of the Ohio board of administration. (103 v. 448.)

SECTION 2037. **Who admissible as inmates; apportionment.** Insane persons who are also epileptic, and whose disease has developed during their residence in this state, and epileptics who have been residents of the state for one year next preceding application for admission, shall be admissible as inmates of this institution. The number of inmates shall be apportioned among the counties of the state according to population. (99 v. 37.)

SECTION 2038. **Inmates considered residents of county from which sent.** For the purpose of voting, taxation, and all other purposes, persons admitted to such institutions shall be deemed residents of the counties from which they are sent, until they are finally discharged. (95 v. 37.)

SECTION 2041. **Monthly statement to probate judge.** On the fifteenth day of each month, the manager shall inform the probate judge in each county in the state of the quota of patients to which it is entitled, and the number in the hospital from such county. Such quota shall be so apportioned among the several classes of epileptics as is deemed by the trustees for the best interests of the state. (91 v. 95.)

SECTION 2042. **Separate quota for soldiers' home.** There shall be a separate and distinct quota for the Ohio soldiers' and sailors' home, and all patients received from such home, shall be charged to it and not to the county where the home is located. (93 v. 419.)

SECTION 2044. **Insane or dangerous epileptics.** In the commitment and conveyance to the hospital, the care and custody while there, and the discharge therefrom, of epileptic insane or epileptics whose being at large is dangerous to the community, like proceedings shall be had, and like powers exercised by officers charged with like duties in the premises as is provided by law for the commitment and care of the insane. (91 v. 95.)

SECTION 2045. **Application of epileptics not insane or dangerous.** Application for admission to the hospital of an epileptic person, other than insane or dangerous, first shall be made in writing by such person.

his or her parent, guardian or representative, to the probate court of the county in which the epileptic is a resident. If such epileptic has no parent, guardian or representative, any citizen may make such application on his behalf. (94 v. 182.)

SECTION 2046. Hearing. Not more than five days after the application is filed, on the day fixed by him, the probate judge shall examine and inquire whether the alleged epileptic is a suitable person for admission to the hospital, and for such purpose may subpoena witnesses. He shall subpoena two medical witnesses who have the qualifications mentioned in section 1956, and if necessary may issue his warrant commanding the alleged epileptic be brought before him. If deemed unsuitable to bring him into the probate court, the judge shall personally visit such person, and certify that he has so ascertained his condition by actual inspection. The other proceedings then may be had in the absence of such person. (103 v. 448.)

SECTION 2047. Conveyance to hospital. Unless for good cause the investigation is postponed, the judge shall proceed with the examination at the time appointed. If satisfied that the person alleged is an epileptic and a suitable person for treatment at the hospital, he shall cause a certificate to be made by the medical witnesses in attendance, upon a form prepared and distributed in the manner described in sections 1956 and 1957. The judge shall transmit the application with the accompanying papers, including the certificate of the physician to the manager of the hospital, who shall advise him whether the patient can be received, and at what time. (103 v. 448.)

SECTION 2048. Conveyance to the hospital. If advised that the patient may be received, the probate judge shall see that the patient is supplied with the proper clothing, and, if not otherwise furnished, he shall furnish such clothing, and take the necessary steps for the conveyance of the patient to the hospital, as provided in case of admission to other state hospitals. If the judge is satisfied that the patient can travel to the hospital alone, he may issue the warrant for conveyance direct to the patient, and such warrant, receipted, shall be returned by the manager through the mail. If the judge deems it proper to intrust the conveyance of the patient to his parent, guardian, representative or friend, he may issue the warrant to such parent, guardian, representative or friend, instead of the sheriff. (94 v. 183.)

SECTION 2049. Clothing; travel and incidental expenses. If not paid by themselves or those having them in charge, the expenses of the clothing of the patient shall be paid by the counties, and if furnished by the institution, may be collected from the counties, as provided by general provisions relating to benevolent institutions. The traveling and incidental expenses of the patient and of the officer or other person or persons in charge of the patient, to and from the institution shall be paid by the counties or as provided by general provisions relating to benevolent institutions. (94 v. 183.)

SECTION 2050. Fees; transfer from other state hospital. The fees of the probate judge, physician and other officers, witnesses and persons, growing out of the admission of a patient to a hospital, shall be paid to

the amount, and in the manner as similar fees in the commitment of an insane person to a state hospital. If at any time it is desirable to transfer a patient from the state hospital to the hospital for epileptics, such patient may be transferred upon the order of the governor, upon the recommendation of the medical superintendent of the state hospital and the manager of the hospital for epileptics. (For transfer of patients, see section 1841-9.) (94 v. 183.)

SECTION 2051. Care, control and discharge of patients. The board of trustees may make such rules and regulations respecting the care, custody, discipline and discharge of patients, as they deem best for the interests of the patients and the state. Until properly discharged, all persons admitted to the hospital as patients shall be under the custody and control of the manager. Subject to such regulations as the trustees adopt, the manager may restrain and discipline any patient in such manner as he deems best for the welfare of the patient and proper conduct of the institution. (91 v. 97.)

OHIO STATE SANATORIUM

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2054. Name and purposes of sanatorium. Such sanatorium shall be known and designated as the Ohio state sanatorium for the treatment of persons residents of this state suffering from incipient pulmonary tuberculosis, commonly called consumption, and shall be an experimental school of instruction for the ultimate purpose of discovering and disseminating throughout the state the best means for the treatment of patients afflicted with tuberculosis. (99 v. 235.)

SECTION 2055. Admission of patients. The admission of patients to the sanatorium must be limited to those in the incipient stage of the disease, and they shall be apportioned among the several counties of the state in proportion to population as shown by the next preceding federal census, but at all times each county shall be entitled to at least one patient therein. The state board of health shall prescribe how such patients may be selected and admitted from the several counties. (99 v. 235.)

SECTION 2056. Deeds of land purchased. The deeds of land purchased in pursuance of this chapter shall be executed in the name of the state of Ohio, and recorded in the records of deeds in the county wherein they are situated. (97 v. 560.)

SECTIONS 2057 to 2059 relate to Building Commission.

SECTION 2068. Who may be admitted. Any citizen of this state of more than seven years of age, suffering from pulmonary tuberculosis in the incipient or early stage, as determined by the superintendent, may be admitted to the sanatorium upon payment in advance of a sum to be fixed by the superintendent, said sum to be not less than five dollars nor more than twenty-five dollars each week, according to the financial condition and ability to pay of the person applying for admittance or any other person legally liable for the care and support of said applicant.

Said sum, so fixed, shall fully cover all expenses for medical treatment, medicine, nursing, board, lodging and laundry. The superintendent shall make such investigation as is necessary to determine such financial condition and ability to pay, and may at any time increase or decrease the amount within the limits herein prescribed upon the approval of the Ohio board of administration. Payment for the support of patients in the sanatorium shall be made in accordance with the provisions of sections 1815-13, 1815-14 and 1815-15 of the General Code. (108 v. Pt. I, 611.)

SECTION 2069. Probation period. All patients admitted to the sanatorium shall be received upon probation for a period of four weeks. If at the end of this time they are, by the superintendent, deemed suitable cases for the sanatorium treatment, they shall be regularly admitted, and if not, be discharged. The superintendent, with the approval of the trustees, may provide suitable out-door employment for patients and allow such compensation for work done as they deem proper, not to exceed five dollars per week, in any case to be deducted from the weekly charge for residence in the sanatorium. (99 v. 236.)

SECTION 2070. Out-door labor furnished. The trustees may provide for the production of milk and eggs upon the sanatorium farm, and such vegetables and other products as they deem advisable, having regard, so far as practicable, to furnishing light out-door labor to patients. They may erect buildings, employ labor and make purchases as they deem necessary therefor, within appropriations provided by the legislature for such purposes. (99 v. 237.)

SECTION 2071. Gifts, legacies, etc. The board of trustees may for the use of such institution receive gifts, legacies, contract endowments, demises and conveyances of property, real or personal, made, given or granted to them for the state sanatorium, or in its name, or in the name of said board. (99 v. 237.)

SECTION 2072. Monthly reports. For the maintenance of the sanatorium the board of trustees may receive and expend all moneys paid to it by patients for treatment therein, or money received from other sources, but compensation for work done by patients in accordance with this chapter shall be paid from such moneys, if any part thereof is unexpended. The superintendent shall make monthly reports in detail to the auditor of state of all money received and expended under this provision. (99 v. 237.)

INSTITUTION FOR DEFORMED AND CRIPPLED CHILDREN

SECTION 2073. Appointment of commission. A commission composed of the governor, auditor of state and three persons resident of the state, to be appointed by the governor, not more than three members of which commission shall belong to one political party, is hereby established, and on behalf of the state is directed to select from lands now owned by the state of Ohio; or, in event no lands suitable for the purpose are available; then, to select and purchase a tract of land, in this state, which tract shall be of such size as the commission deems advisable, and

which shall be suitable for the location of a state institution, to be known and designated as the Ohio institution for the treatment and education of deformed and crippled children. (107 v. 146.)

SECTION 2074. Duty of the Commission. The Commission shall adopt plans and specifications, prepare estimates of cost and construction, accept donations, let contracts for and cause to be constructed on such lands the necessary buildings and structures, at a total cost not to exceed the amount appropriated for that purpose, for the medical and surgical treatment and polytechnic and literary education of the indigent crippled and deformed children of the state, under the age of eighteen years. (107 v. 146.)

SECTION 2075. Equipment and furnishing of building. The commission is also directed to purchase and provide all equipments, fixtures, appliances and furnishings for such land, buildings and structures and to make contracts, employ an architect and other agents and employes as it deems proper and necessary to carry into effect the provisions and purposes of this chapter. (98 v. 57.)

SECTION 2076. Who may be admitted to the institution. The institution is founded for the purpose of caring for, treating and schooling crippled and deformed children of the state, that they may be aided to live in physical comfort and be self-sustaining citizens rather than life-long charges upon the public. Children admissible to the institution shall be apportioned among the several counties of the state in proportion to population as shown by the next preceding federal census, but each county shall be entitled to at least two enrollments therein at all times. (98 v. 57.)

SECTION 2077. Deeds of land purchased. The deeds of land purchased in pursuance of this chapter shall be executed in the name of the state and recorded in the records of deeds in the county wherein they are situated. (98 v. 58.)

SECTION 2078. Oath of office. Before entering upon the duties of their office the members of the commission appointed by the governor, shall take and subscribe an oath or an affirmation, faithfully to discharge all the duties required of them by this chapter. (98 v. 58.)

SECTION 2079. Expenses of commission. The members of the commission shall be allowed their traveling expenses and other necessary expenses incurred in the discharge of their duties. The accounts of expenditures, including expenses of the commission, when certified to by the president and secretary thereof shall be audited and allowed by the auditor of state. (98 v. 58.)

SECTION 2080. Organization of commission. The commission shall organize by electing a president and a secretary who shall be members of the commission. The commissioners may make such rules and regulations as they deem proper. A majority of the members shall constitute a quorum for the transaction of business. (98 v. 58.)

SECTION 2081. Board of trustees, appointments, etc. When the buildings and structures under the provisions of this chapter are so far completed that in the opinion of the commission they properly may be used for the purpose of such institution, with the advice and consent of

the senate, the governor shall appoint a board of trustees therefor to consist of six members, not more than three of whom shall be of the same political party, for one, two, three, four, five, and six years, respectively, from the date of their appointment. Thereafter one member shall be appointed each year for a term of six years. Vacancies occurring in the board shall be filled in like manner. (98 v. 58.)

SECTION 2082. Control and management of institution. The control and management of the institution shall be vested in the board of trustees in accordance with the general provisions of law relating to state benevolent institutions, which provisions so far as applicable shall apply to such board. (98 v. 59.)

CORRECTIONAL INSTITUTIONS

BOYS' INDUSTRIAL SCHOOL

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2083. Boys' industrial school; commitment; discharge. The boys' industrial school, situated in the county of Fairfield, shall be maintained for the industrial and intellectual training of those admitted to its care. All youths committed thereto by the courts shall be committed until twenty-one years of age, unless sooner released by the school for satisfactory behavior and progress in training. The power to receive and discharge students and regulate their training and instruction shall be vested exclusively in the controlling administration department and the school shall be subject to such inspection as may be provided by law. (109 v. 523.)

SECTION 2084. Admission of youths to school. Male youth, not over eighteen nor under ten years of age having normal mental and physical capacity for intellectual and industrial training may be committed to the boys' industrial school by the juvenile courts upon a finding of delinquency as designated by the laws for juveniles. No youth having a contagious or infectious disease shall be so committed. (109 v. 523.)

SECTION 2084-1. What youths may be admitted to the boys' industrial training school. Male youth, not over eighteen nor under ten years of age, having normal, mental and physical capacity for intellectual and industrial training may be admitted to the boys' industrial training school under such regulation governing tuition, maintenance and discipline as the controlling board may provide. Funds collected for the maintenance of youth so admitted shall be turned into the state treasury for the use of the school. (109 v. 524.)

SECTION 2084-2. Child committed under sole control of school. When a child has been received by the boys' industrial school under the provisions of this or other chapters on commitment by a juvenile court, or by transfer or assignment by the board, sole control of said child shall be in the school and the power and jurisdiction of the court shall cease. (109 v. 524.)

SECTION 2085. Admission of convicts to school. Such youths convicted of a crime or offense, the punishment of which, in whole or part, is confinement in jail or the penitentiary at the discretion of the court giving sentence, instead of being sent to the jail or penitentiary, may be committed to the boys' industrial school. (83 v. 7.)

SECTION 2086. May be committed on recommendation of grand jury. Such youth against whom crime is charged before a grand jury, if the charge is supported by sufficient evidence to put him on trial, may be committed by the court to the boys' industrial school on the recommendation of grand jury, without presenting an indictment. (75 v. 60.)

SECTION 2087. Conveyance to school of sentenced youth. Any youth upon being sentenced to the boys' industrial school, within five days after such sentence, unless the court giving such sentence shall otherwise order, shall be conveyed to the school by the sheriff of the county in which the conviction was had, or by a suitable person designated by the court giving the sentence, and delivered into the custody of the superintendent of the school, with a statement of the offense for which he was convicted, his age, and a copy of the sentence. (83 v. 201.)

SECTION 2088. Superintendent may apprentice inmates. The superintendent shall have the same power to apprentice inmates as the directors of houses of refuge. In case the apprenticeship, the indentures shall be filed at the institution, and no other record thereof is necessary. When he deems it for the benefit of a youth so apprenticed, the superintendent may cancel the indentures and reclaim him. (103 v. 879.)

SECTION 2089. Record officer; appointment and duties. The superintendent may employ a record officer who shall keep a record containing the names and residences of all the boys who have been inmates of the school, have been placed in private homes or discharged from the school as reformed. Such officer, by correspondence and travel, shall observe and ascertain the conduct of, and, if possible, keep in communication with such boys after leaving the school, assist them to obtain and keep employment, and aid them by counsel and encouragement in leading sober and industrious lives. (103 v. 879.)

SECTION 2089-1. Chaplain. The superintendent shall appoint a chaplain who shall perform the ordinary duties of such office and such other duties as may be prescribed by the superintendent. (103 v. 880.)

SECTION 2090. Statistics. By observation and inquiry the record officer shall also collect social statistics bearing on the home environment of the inmates, seek homes and employment for such inmates as are entitled to release but are detained because of being orphans or homeless. Such officers shall keep and submit from time to time to the board a record of his proceedings. The term of his employment shall be subject to the discretion of the superintendent. (103 v. 880.)

SECTION 2091. Leave of absence of inmates. The board shall establish rules and regulations under which inmates of the school may be allowed to go upon leave of absence until finally discharged. No inmate shall be given leave of absence, discharged or transferred from the school except upon the written recommendation of the superintendent. The board shall designate the number of field officers who may be employed to

establish proper supervision over inmates on leave of absence. (109 v. 524.)

SECTION 2092. Paroled inmates may be retaken. The superintendent shall enforce such rules and regulations, and retake any inmate so upon parole. The written order certified by the superintendent shall be sufficient warrant for any officer named therein to arrest and return such inmate to the school. An officer named in the order shall be under duty to arrest and return to the school any paroled inmate named therein. (103 v. 880.)

SECTION 2093. Repealed. (108 v. Pt. II, 1221.)

SECTION 2094. Education of inmates. The inmates of the school shall receive such education, and be instructed in such branches of industry, agricultural or mechanical, or otherwise, as the board determines, their reformation and preparation for usefulness being kept in view in the administration of the institution. For this purpose the board may introduce and carry on any branches of industry that are thought to be conducive to these ends. (83 v. 7.)

SECTION 2095. Power of board as to juvenile offenders. The board may cause any juvenile offender, confined in the penitentiary, or a house of refuge, or sentenced to the penitentiary, to be transferred to the boys' industrial school, the expense of which shall be paid by the state. While at such school, a person so removed or sentenced to the penitentiary, shall be governed by the same rules and regulations relative to deportment and discharge as other persons committed to such institutions. The board may also remand or transfer to the penitentiary offenders sentenced thereto, and so transferred, to serve out that part of their respective sentences remaining unexpired at the time of such transfer. (103 v. 880.)

SECTION 2096. Transfer of inmates to Ohio state reformatory. Upon the written application of the superintendent of the school the board may transfer to the Ohio state reformatory any inmate of the school, who at the time of transfer is more than sixteen years of age. A person so transferred shall be received by the superintendent of the reformatory, and be governed by its rules and regulations as if he had been committed thereto upon his conviction. (103 v. 880.)

SECTION 2097. Officers shall work with inmates. The subordinate officers and employes of the school shall participate in the manual labor and other exercises of the inmates. (75 v. 60.)

SECTION 2099. Superintendent may sell power; proceeds. The superintendent of the school by contract may sell power from the power plant in the institution, and the proceeds therefrom may be used for the purposes of the institution. (103 v. 881.)

SECTION 2100. School made special road district. The boys' industrial school, with the lands thereto attached, shall be a special road district, and the superintendent is vested with all the powers of a road superintendent therein. He may alter the public roads on such lands in any manner found to be necessary for the general plan and outline thereof. No alteration shall be made by which existing roads will be greatly lengthened, their grade materially increased, or their general use

to the public materially impaired. Before being made, such alterations must be approved by the commissioners of the county of Fairfield. (83 v. 6.)

GIRLS' INDUSTRIAL SCHOOL

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2101. Object of the school. The girls' industrial school shall be for the instruction, employment and reformation of evil-disposed, incorrigible, and vicious girls. (103 v. 881.)

SECTION 2101-1. Appointment of chief matron. The Ohio board of administration shall appoint a chief matron who shall perform such duties as may be assigned to her by the Ohio board of administration relative to said institution. (103 v. 881.)

SECTION 2102. Duties. The chief matron shall direct the general management of the farm, relating to its mechanical, architectural and horticultural productions, and for this purpose may employ suitable persons to superintend the different producing interests prosecuted thereon. The chief matron shall cause the accounts of the institution to be so kept that the profit over the expenses of maintaining the school can be ascertained. When so ascertained, the chief matron shall fund such annual profits for distribution among the girls, in shares, to be paid them pro rata, when honorably discharged from the institution. She shall see also that the productions not needed by the institution are sold to the best advantage. The value of all productions, used or sold shall be duly accounted for in the annual report. (103 v. 881.)

SECTION 2103. General charge of girls. With such subordinate officers as the chief matron shall appoint, the chief matron shall have the general charge and custody of the girls. She shall be a constant resident at the school, and under the direction of the Ohio board of administration, shall discipline, govern, instruct, employ, and use her best endeavors to reform the girls in such manner as, while preserving their health and promoting the proper development of their physical system, will secure, as far as possible, the formation of moral and industrial habits, and regular thorough progress and improvement in their studies, trades and employments. (103 v. 881.)

SECTION 2103-2. Woman physician for school. Subject to the approval of the board, the chief matron of the girls' industrial school shall appoint a capable and experienced woman physician who shall reside at the school. She shall give the necessary medical attention to the inmates and also have charge of their instruction in physiology, hygiene and physical culture. The board shall fix the salary, which shall not be less than twelve hundred nor more than eighteen hundred dollars per year. (103 v. 881.)

SECTION 2105. Further duties of matron. The chief matron shall have charge of the property pertaining to the school, within the precincts thereof, and in suitable books keep complete accounts of her receipts and expenditures, and of all property entrusted to her, showing the income

and expenses of the institution. She also must account to the treasurer in such manner as the board requires, for all moneys received by her. Her books, accounts and documents, relating to the school, shall at all times be open to inspection of the board. She shall keep a card system containing the names and age of each girl, and, as far as possible, the circumstances connected with her history prior to the time of admission to the school, and add thereto such facts as come to her knowledge relating to her history while at the institution, and after leaving it. (103 v. 881.)

SECTION 2106. Technical industrial school. In addition to the school for instruction, the board shall institute and maintain, at such school a technical industrial school in which the inmates shall be taught the various lines of manual skill of such character as to prepare them to perform the skilled labor required to fit them for self-support when released therefrom. Such school shall be maintained at least ten months each year, and be under the direction and management of a competent principal and a trained corps of teachers. The principal must be a graduate of Pratt's institute or some technical and industrial school, or college, of equal rank and standing, and be versed in the principals of manual, industrial and technical training. (103 v. 882.)

SECTION 2111. Board may transfer female convict to the school. A girl under the age of eighteen years sentenced to imprisonment in the penitentiary, county jail or other penal institution, at any time after such sentence and before the expiration thereof, may be transferred to the girls' industrial school, on the written order of the Ohio board of administration, to serve the unexpired part of the sentence. Such transfer shall be made, if it shall be made, to appear that it will be conducive to her reformation, and not prejudicial to the school. The chief matron of the school shall receive such girls so transferred, and if she finds at any time that the best interest of the school requires a return of such girl to the penal institution from which she came, she may so recommend to the board, which is empowered to order the return of such girl. (103 v. 882.)

SECTION 2112. Detention and discharge. A girl, duly committed to the school shall be kept there, disciplined, instructed, employed and governed under the direction of the board, until she is either thought to be reformed or discharged, or bound out by the chief matron according to the by-laws of the institution, or has attained the age of twenty-one years. Provided that the board may discharge a girl as a reward of merit three months before she attains the age of twenty-one years. With the approval of the governor, after a full statement of the cause, the board may discharge and return to the parents, guardian, or juvenile court of the county from which she was committed who may place her under the care of the infirmary superintendent of the county, any girl whom the board thinks ought to be removed from the school. In such case it shall enter upon its record the reason for her discharge, a copy of which, signed by the secretary, shall be forthwith transmitted to the juvenile court of the county from which the girl was committed. (103 v. 882.)

SECTION 2112-1. Paroles. That the Ohio board of administration shall establish rules and regulations under which the inmates of the girls' industrial school may be conditionally released upon parole in legal custody and under the control of the chief matron and be subject at any time to be returned to the institution. No inmate shall be paroled except upon the written recommendation of the chief matron, or a member of the board, nor unless the board is of the opinion that there is a reasonable ground to believe that she will conduct herself in a lawful and proper manner while at liberty, and that her parole will not be incompatible with the welfare of society. (103 v. 883.)

SECTION 2112-2. Return of inmate. The chief matron shall enforce such rules and regulations and return any inmate so on parole. Her written order shall be sufficient warrant for any officer to arrest and return such inmate to the school. It shall be the duty of any officer to arrest and return to the girls' industrial school any paroled inmate upon such order of the chief matron. (103 v. 883.)

SECTION 2112-3. Parole officers. To carry out the purpose of this act the chief matron, with the consent of the board, shall appoint not less than four discreet women, who shall be under the direction and control of the chief matron, to act as parole officers. The salaries and expenses shall be paid as provided in section 2215 of the General Code. It shall be their duty to seek homes and employment for inmates who may be paroled, and to exercise a kindly supervision while upon parole. They shall also investigate the qualifications and ability of parents and other persons who seek to receive paroled or discharged inmates into their homes. (103 v. 883.)

SECTION 2112-4. Deposit of one-third of earnings. When an inmate of the girls' industrial school is paroled or indentured under contract of employment, it shall be lawful for the board to require that not more than one-third of the consideration named in the contract of employment shall be paid monthly to the chief matron, and by her deposited in a savings bank, to be held in trust for such inmate, and with any interest thereon to be paid to her upon final discharge. (103 v. 883.)

SECTION 2113. Return after discharge. When the best interest demands it with the approval of the full board, the chief matron may receive back into the school any girl under twenty-one years of age, who has been discharged therefrom. (103 v. 883.)

SECTION 2114. Return after escape. An inmate of the girls' industrial school who escapes therefrom, if captured before the expiration of the time for which she was committed, may be returned to the school by the chief matron and at her option, there be kept for a period not to exceed one year in addition to the time for which she was committed. (103 v. 883.)

SECTION 2115. Proceedings when girl under eighteen. When a girl between nine and eighteen years of age is brought before a court of criminal jurisdiction charged with an offense, punishable by a fine or imprisonment other than imprisonment for life and who, if found guilty, would be a proper subject for commitment to the school, the court, by warrant or order, shall cause her forthwith to be taken before the judge of the

juvenile court of the proper county, and shall transmit to him the complaint, indictment, or warrant, by virtue of which she was arrested. Such judge of the juvenile court shall proceed in the same manner as if she had been brought before him upon original complaint. (103 v. 883.)

SECTION 2116. Girls may be apprenticed. The chief matron may bind out, as an apprentice or servant, any girl committed to her charge, for a term not longer than until she arrives at the age of twenty-one years. The person to whom the girl is bound, by the terms of the indenture, shall be required to report to the chief matron as often as once each month, her conduct and behavior, and whether she is living under his care, and if not, where she is. (103 v. 884.)

SECTION 2117. Transfer of indenture not permitted. A person receiving an apprentice under the provisions of the preceding section shall not assign or transfer the indenture of apprenticeship, nor let out her service without the consent in writing of the chief matron. If the person, for any cause, desires to be relieved from the contract, the chief matron, upon application, may cancel the indenture and resume the charge and management of the girl, with the same authority over her as before the indenture was made. (103 v. 884.)

SECTION 2118. Ill-treatment of indentured. If such person is guilty of cruelty or ill-treatment toward the girl so bound to service, or of any violation of the terms of the indenture, she or the chief matron may make complaint to the juvenile judge of the proper county, who shall summon the proper parties before him, and examine into the complaint. If it appears to be well founded, by certificate he shall discharge her from all obligation of future service, and restore her to the school. (103 v. 884.)

SECTION 2119. Chief matron shall be guardian. The chief matron shall be the guardian of each girl so bound or held to service, shall take care that the terms of the contract are faithfully fulfilled, that she is properly treated, and shall cause any grievance to be redressed. (103 v. 884.)

SECTION 2119-1. Penalty for influencing girl to leave home. Whoever by letter or otherwise, influences or attempts to influence any girl while on parole from the girls' industrial school to leave her home or place of employment or to violate any of the conditions of her parole, shall upon conviction be fined not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00), or imprisoned for not more than one year, or both. (103 v. 884.)

PENAL INSTITUTIONS

OHIO STATE REFORMATORY

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2129. Appointment, duties and salary of chaplain. The superintendent shall appoint a chaplain, who shall perform the ordinary duties of such office and such other duties as are prescribed by the board.

In connection with the superintendent, he shall make special observation and report of the conduct, moral character and standing of the prisoners, and their eligibility for parole. He shall receive a salary to be fixed by the Ohio board of administration, and the superintendent shall assign him suitable rooms in the reformatory and necessary furniture, fuel and provisions for himself and family. He shall devote his entire time to the duties of his office. (103 v. 884.)

SECTION 2130. Labor on buildings, etc., by inmates. The labor necessary for the construction of shops and other buildings and the repair thereof, and for the enclosure and care of the grounds of the reformatory shall be performed by the inmates as far as practicable. (88 v. 384.)

SECTION 2131. Who may be sentenced to reformatory. The superintendent shall receive all male criminals between the ages of sixteen and thirty years sentenced to the reformatory, if they are not known to have been previously sentenced to a state prison. Male persons between the ages of sixteen and twenty-one years convicted of felony shall be sentenced to the reformatory instead of the penitentiary. Such persons between the ages of twenty-one and thirty years may be sentenced to the reformatory if the court passing sentence deems them amenable to reformatory methods. No person convicted of murder in the first or second degree shall be sentenced or transferred to the reformatory. (103 v. 885.)

SECTION 2132. Sentences must be general. Courts imposing sentences to the Ohio state reformatory shall make them general, and not fixed or limited in their duration. The return of imprisonment of prisoners shall be terminated by the Ohio board of administration, as authorized by this chapter, but the term of such imprisonment shall not exceed the maximum term, nor be less than the minimum term provided by law for such felony. (103 v. 885.)

SECTION 2133. Erroneous sentence. If, through oversight or otherwise, a sentence to the reformatory should be for a definite period, it shall not for that reason be void, but the person so sentenced shall receive the benefits and be subject to the liabilities, of this chapter, as if he had been sentenced in the manner required by law. In such case the Ohio board of administration shall deliver to such person a copy of this chapter and written information of his relations to them. (103 v. 885.)

SECTION 2134. Sheriff's duties after conviction and sentence. Within five days after a person is sentenced to the reformatory unless the execution of such sentence be suspended, he shall be conveyed thereto by the sheriff of the county in which he was convicted, and delivered into the custody of the superintendent thereof there to be safely kept until released by the Ohio board of administration or pardoned by the governor. The sheriff shall also leave a copy of the sentence of the court with such superintendent. If the execution of a sentence is suspended and the judgment is afterwards affirmed, the defendant shall be conveyed to the reformatory within five days thereafter. In transporting a prisoner to the reformatory, the sheriff shall perform like duties, have like powers and receive like compensation as provided by law for transporting prisoners to the penitentiary. (103 v. 885.)

SECTION 2135. Control and record of prisoners. The Ohio board of administration shall maintain such control over prisoners committed to its custody as may prevent them from committing crime, secure their self-support and accomplish their reformation. When a prisoner is received the superintendent shall cause to be entered in a register the date of his admission, his name, age, nativity and nationality, with such facts as can be ascertained of his parentage, early education and social influences which indicate the constitutional defects and tendencies of the prisoner and the best probable plan of treatment. Upon such register shall be entered quarterly, or oftener, minutes of observed improvement or deterioration of character and notes as to methods and treatment employed. All orders or alterations affecting the standing or situation of the prisoner, the circumstances of his final release and subsequent facts of his personal history which may be brought to the knowledge of the superintendent shall also be entered therein. (103 v. 885.)

SECTION 2136. Discipline. The discipline to be observed in the institution shall be reformatory and the Ohio board of administration shall employ such means for reformation or improvement as may be expedient. (103 v. 886.)

SECTION 2137. Industrial training schools. The superintendent, with the authority and under the direction of the Ohio board of administration, may expend not to exceed fifty per cent. of the gross earnings of the inmates for the equipment and maintenance of industrial training schools. Such schools shall be conducted so that the inmates shall be taught and trained in various arts of such character as to enable them to perform the skilled labor required at the reformatory, and fit them for self-support when released therefrom. The superintendent shall make detailed monthly reports to the auditor of state of all money received and expended under the provisions of this section. (103 v. 886.)

SECTION 2138. Earnings of prisoners. The superintendent shall place to the credit of each prisoner such amount of his earnings as the Ohio board of administration deems equitable and just, taking in consideration the character of the prisoner, the nature of the crime for which he was imprisoned and his general deportment. Such credit shall not exceed twenty per cent. of his earnings and shall be paid to him or his family at such time or in such manner as the board directs, but not less than twenty-five per cent. shall be left for and paid to such prisoner when he is restored to his citizenship. The superintendent, with the approval of the board, for violation of the rules, want of propriety or other misconduct, may cancel such portion of such credit as he deems proper. (103 v. 886.)

SECTION 2139. Transfer of prisoners from penitentiary and boys' industrial school. The Ohio board of administration may receive and detain during the term of their sentences to the penitentiary, prisoners transferred therefrom. The law applicable to convicts in the penitentiary, so far as they relate to the commutation of imprisonment for good conduct, shall be applicable to such convicts when so transferred. The board may transfer to the reformatory from the boys' industrial school inmates of an apparently incorrigible nature whose presence in the school appears to be detrimental to the welfare of the institution. (103 v. 886.)

SECTION 2140. Transfer of prisoners to Ohio penitentiary. The Ohio board of administration, with the written consent of the governor, may transfer to the penitentiary a prisoner, who, subsequent to his committal, shall be shown to have been more than thirty years of age at the time of his conviction or to have been previously convicted of crime. The Ohio board of administration may so transfer an apparently incorrigible prisoner whose presence in the reformatory appears to be seriously detrimental to the well-being of the institution. (103 v. 886.)

SECTION 2141. Parole of prisoners. The Ohio board of administration shall establish rules and regulations under which prisoners may be allowed to go upon parole in legal custody, under the control of the Ohio board of administration and subject to be taken back into the enclosure of the reformatory. A prisoner shall not be eligible to parole, and an application for parole shall not be considered by the board until such prisoner has been recommended as worthy of such consideration by the superintendent and chaplain of the reformatory. (*See sections 86 to 92.*) (103 v. 887.)

SECTION 2142. Notice; action of board. Before consideration by the Ohio board of administration notice of such recommendation shall be published for three consecutive weeks in two newspapers of opposite politics in the county from which the prisoner is sentenced, or in the county of the residence of the prisoner. The expense of such publication shall not exceed one dollar for each paper. A prisoner shall not be released upon parole unless, in the judgment of the board, there is reasonable ground to believe that, if so released, he will be and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society. Such judgment shall be based upon the record and character of the prisoner in the reformatory, his previous record, the nature and character of the crime committed and other facts which the board may be able to obtain bearing upon the advisability of such parole. A prisoner shall not be paroled without receiving the votes of all the members of the board present at a regular or special meeting, and when a prisoner so paroled, has during such parole performed all the conditions imposed, the Ohio board of administration may finally release and discharge him. (*See sections 86 to 92, Ohio Board of Clemency.*) (103 v. 887.)

SECTION 2143. No petition or outside influences permitted. A petition or application for the release of a prisoner shall not be entertained by the Ohio board of administration, and no attorney or other person shall appear before the board as applicant for the parole of a prisoner. The board may make such inquiries as is advisable as to the previous history or environment of such prisoner or his probable surroundings if paroled. Such inquiries shall be instituted by the board itself and all information thus received shall be confidential. (*See sections 86 to 92, Ohio Board of Clemency.*) (103 v. 887.)

SECTION 2144. Return of paroled prisoners. The superintendent shall enforce the rules and regulations relating to paroles, and may retake and reimprison a prisoner upon parole. His written order shall be sufficient warrant for officers named therein to arrest and return to

actual custody a conditionally released or paroled prisoner. If the paroled prisoner is in the custody of an officer of the law, either under an order of arrest or by virtue of a conviction and sentence for a crime other than murder in the first degree, manslaughter, rape or arson, such order shall be a sufficient warrant to take such paroled prisoner into the custody of an officer of the reformatory. The officers named in such order shall arrest and return to custody a conditionally released or paroled prisoner. The Ohio board of administration may make rules and regulations necessary and proper for the employment, discipline, instruction, education, removal, temporary or conditional release and return of prisoners of the reformatory. (103 v. 887.)

SECTION 2145. System of credits. The Ohio board of administration, under a system of marks or otherwise, shall make a uniform plan to determine what number of marks or credits shall be earned by each prisoner with a view to increased privileges, or to release from its control. Such plans shall be subject to revision. Each prisoner shall be credited for good personal demeanor, diligence in labor or study, and results accomplished, and debited for derelictions, negligence or offenses. The superintendent shall establish rules and regulations by which each prisoner's account of marks shall be made known to him as often as once a month, and make provision by which a prisoner may see and converse with one or more of the officers of the institution during each month. (103 v. 888.)

SECTION 2146. Release of prisoners. When there is a reasonable probability that a prisoner's release or parole will not be incompatible with the welfare of society, the Ohio board of administration may grant an absolute release to such prisoner, certifying the fact of such release and the grounds thereof to the governor, who may thereupon restore such prisoner to citizenship. Nothing herein contained shall impair the power of the governor to grant a pardon or commutation in any case. (103 v. 888.)

SECTION 2147. Recommendation for pardon. The Ohio board of administration may recommend that a prisoner be pardoned, without the intervention of the state board of pardons. Such recommendation shall require the votes of all the members of the board present at a regular or special meeting and such pardon shall first be recommended by the superintendent and chaplain of the reformatory. (103 v. 888.)

OHIO REFORMATORY FOR WOMEN

(For Ohio Board of Administration read Department of Public Welfare.)

SECTION 2148-1. Who shall be admitted. The Ohio reformatory for women shall be used for the detention of all females over sixteen years of age, convicted of a felony, misdemeanor, or delinquency as hereinafter provided, and for the detention of such female prisoners as shall be transferred thereto from the Ohio penitentiary and the girls' industrial school as hereinafter provided. (106 v. 130.)

SECTION 2148-2. Control and management. The Ohio board of administration shall assume the control and management of the reformatory. It shall assume all the duties, powers and privileges of the site and building commission as set forth in sections 3, 4, 5 and 7 of an act entitled "An act to establish a reformatory for women and to provide for the management thereof," passed May 15, 1911. It shall faithfully execute any contracts heretofore made by such site and building commission, and no such contract shall be considered null and void or in any way impaired because of this act. The general laws relating to state institutions shall govern said board in so far as applicable, except as herein provided. (106 v. 130.)

SECTION 2148-4. Selection of superintendent and other employes. The board shall select and designate a suitable woman as superintendent to manage the institution and promote the welfare of the inmates thereof. The selection of other employes shall be after the manner described in section 1842 of the General Code, except that as far as practicable the employes shall be women. (106 v. 130.)

SECTION 2148-5. Proclamation by governor when ready for use. As soon as the governor shall be satisfied that suitable buildings have been erected and are ready for use and for the reception of women convicted of felony he shall issue a proclamation to that effect, attested by the secretary of state, and the secretary of state shall furnish printed copies of such proclamation to the county clerks of courts and from the date of said proclamation all portions of this act except those relating to the commitment of misdemeanants and delinquents shall be in full force and effect. Whenever additional buildings have been completed so as to care for misdemeanants and delinquents a proclamation shall be issued and published in the same manner and copies furnished to county clerks of courts and to all judges and magistrates having authority to sentence misdemeanants and delinquents and from and after the date of this proclamation all portions of this act relating to the commitment of persons to said reformatory shall be in full force and effect.

All female persons convicted of felony, except murder in the first degree without the benefit of recommendation of mercy, shall be sentenced to the Ohio reformatory for women in the same manner as male persons are now sentenced to the Ohio state reformatory. And in so far as applicable, the laws relating to the management of the Ohio state reformatory and the control and management thereof, shall apply to the Ohio reformatory for women. (106 v. 130.)

SECTION 2148-6. Females over sixteen guilty of misdemeanor. Female persons over sixteen years of age found guilty of misdemeanor by any court of this state shall be sentenced to the Ohio reformatory for women and be subject to the control of the Ohio board of administration, but all such persons shall be eligible to parole under the provisions of this act. (103 v. 671.)

SECTION 2148-7. When sentence of females to other institutions unlawful. After the issuance of the first proclamation hereinbefore referred to, it shall be unlawful to sentence any female convicted of a felony to be confined in either the Ohio penitentiary or a jail, workhouse,

house of correction or other correctional or penal institution, and after the issuance of the second proclamation it shall be unlawful to sentence any female convicted of a misdemeanor or delinquency to be confined in any such place, except in both cases the reformatory herein provided for, the girls' industrial school or other institution for juvenile delinquency, unless such person is over sixteen years of age and has been sentenced for less than thirty days, or is remanded to jail in default of payment of either fine or costs or both, which will cause imprisonment for less than thirty days, provided that this section shall not apply to imprisonment for contempt of court. (106 v. 131.)

SECTION 2148-8. Transfer from Ohio penitentiary; and girls' industrial school. Upon the issuance of the proclamation hereinbefore provided for relating to felons the governor shall issue an order to the warden of the Ohio penitentiary to convey and deliver to the Ohio reformatory for women all females in his legal custody, except any one who may be convicted of murder in the first degree, without recommendation for mercy, and at the same time, said warden shall deliver to the superintendent of said reformatory all papers relating to the commitment of said females. All females so transferred from the Ohio penitentiary to said reformatory shall be entitled to the same legal rights and privileges as to term of sentence, diminution of sentence and parole as if confined in the Ohio penitentiary, and the warden of the Ohio penitentiary shall also furnish complete information concerning all females on parole, and such paroled prisoners shall thereupon be transferred to the legal custody of the superintendent and be under the control of the Ohio board of administration.

Upon the written order of the Ohio board of administration, any inmate of the girls' industrial school, over fourteen years of age, may be transferred to the Ohio reformatory for women, when such inmate appears to be incorrigible, or whose presence in the girls' industrial school seems to be seriously detrimental to the well being of the institution; and such transferred persons shall be entitled to the same privileges, relating to discharge and condition of parole as they possessed when inmates of the girls' industrial school. (106 v. 131.)

SECTION 2148-9. Suspension of sentence. Sentence and term of imprisonment. All provisions of law relating to suspension of sentences of persons sentenced to confinement in the Ohio penitentiary and the Ohio state reformatory shall be applicable to persons sentenced to the Ohio reformatory for women.

Courts imposing sentences to the Ohio reformatory for women shall make them general, and not fixed or limited in their duration. The term of imprisonment of persons shall be terminated by the Ohio board of administration as authorized by this act, but the term of such imprisonment for felony shall not exceed the maximum term nor be less than the minimum term provided by law for the crime for which such person is sentenced. In case of commitments for misdemeanor or delinquency the term of such imprisonment shall not be more than three years, but such person shall be eligible for parole as follows: Persons committed for the first time, after imprisonment for two months; for second time, after four months; for third or greater time, after six months; and provided

that they shall be continued upon parole for at least one year before receiving final discharge.

Sentence for definite period not void. If, through oversight or otherwise, a sentence to said reformatory should be for a definite period, it shall not for that reason be void, but the person so sentenced shall receive the benefits and be subject to the liabilities of this act in the same manner as if she had been sentenced in the manner required by law. In such case the Ohio board of administration shall deliver to each person a copy of this act and written information of her relations to them. (103 v. 672.)

SECTION 2148-10. (1248-10.) Rules and regulations relating to parole. The Ohio board of administration shall establish rules and regulations under which persons in the Ohio reformatory for women may be allowed to go upon parole in legal custody, under the control of the board and subject to be taken back into the inclosure of the reformatory. A person shall not be eligible to parole and an application for such parole shall not be considered by the board until such prisoner has been recommended as worthy of such consideration by the superintendent of the reformatory, provided, that no female sentenced to imprisonment for life shall be eligible to parole within five years from admission.

Where there is a reasonable probability that the prisoner's release or parole will not be incompatible with the welfare of society and the board deems it best, it may grant absolute release to such prisoner. Nothing herein contained, however, shall impair the power of the governor to grant a pardon or commutation in any case. (106 v. 132.)

SECTION 2148-11. Recommendation of pardon by board. The board may recommend that a prisoner may be pardoned without intervention of the state board of pardons. Such recommendations shall require the votes of all members of the board present at a regular or special meeting and such pardon shall first be recommended by the superintendent of the reformatory. (106 v. 132.)

OHIO PENITENTIARY

(For Ohio Board of Administration read Department of Public Welfare.)

(See Sections 86 to 92-3.)

SECTIONS 2149 to 2154, repealed May 11, 1911.

SECTION 2155. Residence of officials. A manager or officer of the penitentiary other than the warden and his family and the matrons, shall not become residents thereof. Such matrons may receive their provisions therefrom. (85 v. 260.)

SECTION 2157. Board may rebuild shops. If a shop or building in which convicts are employed should be destroyed or injured by fire, it may be rebuilt or repaired immediately, under the direction of the board of managers. (75 v. 17.)

SECTION 2158. Suits on behalf of penitentiary. All suits or prosecutions on behalf of the penitentiary shall be brought in the name of "The Ohio Penitentiary." (33 v. 14.)

SECTION 2159. Rules and regulations as to the conduct of prisoners. The board of managers, subject to the approval of the governor, shall make such rules and regulations for the government of prisoners as may tend to promote their reformation, or be necessary for the purpose of this chapter. They shall make provisions for the separation or classification of prisoners, their division into different grades with promotion or degradation according to merit or demerit, their employment and instruction in industrial pursuits and their education. They shall keep a correct daily record of the conduct of each prisoner and of his fidelity and diligence in the performance of his work.

SECTION 2160. Release of prisoners under general sentence. The board of managers shall provide for the conditional or absolute release of prisoners under a general sentence of imprisonment, and their arrest and return to custody within the penitentiary. A prisoner shall not be released, conditionally or absolutely, unless, in the judgment of the managers, there is reasonable grounds to believe that his release is not incompatible with the welfare of society. A petition or application for the release of a prisoner shall not be entertained by the board. A prisoner under general sentence to the penitentiary shall not be released therefrom until he has served the minimum term provided by law for the crime of which he was convicted; and he shall not be kept in the penitentiary beyond the maximum term provided by law for such offense. (88 v. 556.)

SECTION 2161. Restoration of convicts to citizenship at time of release. A convict who has served his entire term without a violation of the rules and discipline, except such as the board of managers has excused, shall be restored to the rights and privileges forfeited by his conviction. He shall receive from the governor a certificate of such restoration, to be issued under the great seal of the state, whenever he shall present to the governor a certificate of good conduct which shall be furnished him by the warden. (88 v. 556.)

SECTION 2162. Restoration of convict to citizenship after release. A convict not entitled to restoration under the next preceding section, having conducted himself in an exemplary manner for a period of not less than twelve consecutive months succeeding his release, may present to the governor a certificate to that effect signed by ten or more good and well-known citizens of the place where he has resided during such period. The good standing of such citizens and the genuineness of their signatures must be certified to by the probate judge of the county where they reside. Such convict shall be entitled to a restoration of his rights and privileges, as provided for in the next preceding section. (88 v. 556.)

SECTION 2163. Diminution of sentence for good behavior. A person confined in the penitentiary, or hereafter sentenced thereto for a definite term other than life, having passed the entire period of his imprisonment without violation of the rules and discipline, except such as the board of managers shall excuse, will be entitled to the following diminution of his sentence:

(a) A prisoner sentenced for a term of one year shall be allowed a deduction of five days from each of the twelve months of his sentence.

(b) A prisoner sentenced for a term of two years shall be allowed

a deduction of six days from each of the twenty-four months of his sentence.

(c) A prisoner sentenced for a term of three years shall be allowed a deduction of eight days from each of the thirty-six months of his sentence.

(d) A prisoner sentenced for a term of four years shall be allowed a deduction of nine days from each of the forty-eight months of his sentence.

(e) A prisoner sentenced for a term of five years shall be allowed a deduction of ten days from each of the sixty months of his sentence.

(f) A prisoner sentenced for a term of six or more years, shall be allowed a deduction of eleven days from each of the months of his full term.

(g) A prisoner sentenced for a number of months or fraction of years shall be allowed the same time per month as is provided for the year next higher than maximum sentence. (88 v. 556.)

SECTION 2164. Board may deduct part of "good time" from prisoner. The board of managers may deduct from a prisoner a part or all the good time gained, for a violation of the rules of discipline, or a want of fidelity and care in the performance of work, according to the aggravated nature or the frequency of the offense. The board may review the conduct record of a prisoner. If a violation of the rules and discipline was committed through ignorance or circumstances beyond his control or abuse by an officer, the managers may restore to the prisoner the time lost by such violations. (88 v. 556.)

SECTION 2165. "Good time" of sick or infirm convict. If a convict is prevented from laboring by sickness or other infirmities not intentionally caused by himself, or for which he is not responsible, he shall be entitled, by good conduct, to the same deduction from his sentence each month as provided for in this chapter. Upon his discharge from the penitentiary, the board of managers may allow him sufficient money to defray his necessary expenses to the county where he was convicted. (88 v. 556.)

SECTION 2166 Minimum period of sentences fixed. Courts imposing sentences to the Ohio penitentiary for felonies, except treason, and murder in the first degree, shall make them general, but they shall fix, within the limits prescribed by law, a minimum period of duration of such sentences. All terms of imprisonment of persons in the Ohio penitentiary may be terminated by the Ohio board of administration, as authorized by this chapter, but no such terms shall exceed the maximum term provided by law for the felony of which the prisoner was convicted, nor be less than the minimum term fixed by the court for such felony. If a prisoner is sentenced for two or more separate felonies, his term of imprisonment may equal, but shall not exceed, the aggregate of the maximum terms of all the felonies for which he was sentenced and, for the purposes of this chapter he shall be held to be serving one continuous term of imprisonment. If through oversight or otherwise, a sentence to the Ohio penitentiary should be for a definite term, it shall not thereby become void, but the person so sentenced shall

be subject to the liabilities of this chapter and receive the benefits thereof, as if he had not been sentenced in the manner required by this section. (109 v. 64.)

PAROLE OF PRISONERS

(See Sections 86 to 92-3.)

SECTION 2167. Control of prisoners; their previous history. The board of managers shall maintain such control over prisoners committed to their custody as may prevent them from committing crime, secure their self-support and accomplish their reformation. When a prisoner is received into the penitentiary upon direct sentence thereto, they shall enter in a register the date of such admission, his name, age, nativity, nationality, and other facts as to his parentage and early social influences which might indicate the constitutional and acquired defects and tendencies of such prisoner. Upon these shall be based an estimate of the condition of the prisoner and the best probable plan of his treatment. (81 v. 76.)

SECTION 2168. Register of prisoner's conduct, etc. Upon such register shall be entered notes of observed improvement or deterioration of character of the prisoner, the method of treatment employed, orders or alternations affecting his standing or situation and subsequent facts of personal history which may be officially brought to the knowledge of the managers bearing upon the propriety of the release or parole of the prisoner. (81 v. 76.)

SECTION 2169. Rules and regulations as to parole of prisoners. The Ohio board of administration (Ohio Board of Clemency) shall establish rules and regulations by which a prisoner under sentence other than for treason or murder in the first or second degree, having served a minimum term provided by law for the crime for which he was convicted, or a prisoner under sentence for murder in the second degree, having served under such sentence ten full years, may be allowed to go upon parole outside the building and inclosure of the penitentiary. Full power to enforce such rules and regulations is hereby conferred upon the board, but the concurrence of every member shall be necessary for the parole of a prisoner. The board may designate geographical limits within and without the state, to which a paroled prisoner may be confined or may at any time enlarge or reduce such limits, by unanimous vote. (107 v. 527.)

SECTION 2170. Rules and regulations as to return of paroled prisoners. All prisoners on parole shall remain in the legal custody and under control of the board of managers and subject to be taken back within the inclosure of the penitentiary. Such board may make and enforce rules and regulations with respect to the retaking and reimprisonment of convicts under parole. Its written order certified by its secretary shall be sufficient warrant for all officers named therein to return to actual custody a conditionally released or paroled prisoner; and such officers shall execute such orders as in cases of ordinary criminal process. (89 v. 361.)

SECTION 2171. Conditions precedent to parole. A prisoner confined in the penitentiary shall not be eligible to parole, and an application for parole shall not be considered by the board of managers, until such prisoner is recommended as worthy of such consideration by the warden and chaplain of the penitentiary. Before consideration by such board, notice of such recommendation shall be published for three consecutive weeks in two newspapers of opposite politics in the county from which such prisoner was sentenced. The expense of such publication shall not exceed one dollar for each paper. (88 v. 310.)

SECTION 2172. Action of managers on parole. A prisoner shall not be released upon parole, either conditionally or absolutely, unless, in the judgment of the board of managers, his release will not be incompatible with the welfare of society. Such judgment shall be based upon the record and character of the prisoner as established in the penitentiary. (88 v. 310.)

SECTION 2173. No petition for parole permitted. A petition or application for the release of a prisoner shall not be entertained by the board of managers, and attorneys or other persons shall not appear before them as applicants for the parole of a prisoner, but such board may make such inquiries as it deems proper as to the history or environment of such prisoner, or his probable surroundings if paroled. Such inquiries shall be instituted by the managers themselves and all information thus received shall be treated as confidential. (88 v. 310.)

SECTION 2174. Violators of parole to be treated as escaped prisoners. A prisoner violating the conditions of his parole or conditional release, having been entered in the proceedings of the board of managers and declared to be delinquent, shall thereafter be treated as an escaped prisoner owing service to the state, and when arrested, shall serve the unexpired period of the maximum term of his imprisonment. The time from the date of his declared delinquency to the date of his arrest shall not be counted as a part of time served. (81 v. 76.)

SECTION 2175. Paroled prisoner who commits a new crime. A prisoner at large upon parole or conditional release committing a new crime, and resentenced to the penitentiary, shall serve a second sentence, to begin at the termination of his service under the first or former sentence, or the annulment thereof. (81 v. 76.)

SECTION 2183. Warden may employ convicts on certain work for the state. Under the direction of the state board of administration the warden may employ a portion of the convicts in the manufacture of articles used by the state in carrying on the penitentiary, procure machinery and prepare shop room for that purpose. He may also employ a portion of the convicts in the preparation and manufacture of any or all forms of road making material for use in the construction, improvement, maintenance, and repair of the main market roads and highways within the state of Ohio. For such purposes the state board of administration is authorized with the approval of the governor to purchase the necessary land, quarries, buildings, machinery, and to erect buildings and shops for said purposes, and employ such persons as may be necessary to instruct the convicts in such manufacture. The terms and manner of em-

ployment of such persons shall be fixed and determined by the board. (See Section 1866.) (103 v. 65.)

SECTION 2183-1. Account shall be kept of labor employed. A strict account shall be kept of the labor of such convicts so employed or assigned to the manufacture of such articles, or road-making material. Such convicts may receive credit for such portions of the amount of their labor as the board deems equitable and just, taking into account the character of the prisoners, the nature of the crime for which they are imprisoned, and their general deportment. Such amount so determined shall be credited to each prisoner as his earnings, and it may be paid to him or his family, or those dependent upon him, in such amounts, at such time, and in such manner, as such board deems best; but at least ten per cent. of such earnings shall be kept for and paid to such convict at the time of his discharge. The warden, with the approval of such board, for a violation of the rules, want of propriety, or other misconduct, may cancel a portion of such credit or credits. (103 v. 66.)

SECTION 2183-2. Board authorized to adopt rules and enter into contracts for sale of road materials. Such board is authorized to adopt such rules and regulations applicable to convicts employed in such manner. It is further authorized to make and enter into such contract, or contracts, for the sale of such road materials, with any department or subdivision of the state of Ohio and for furnishing and delivering any such road material for use upon the public roads and highways of said state. (103 v. 66.)

SECTION 2184. Warden may hire domestics. Convicts may be hired by the warden for domestic purposes on terms to be agreed upon by him and the board of managers, but no superintendent of the kitchen or state shops, captain of the watch or male guard shall board in the institution. The female guards may be permitted to board themselves in the female prison department, but no officer shall be required to board in the institution, except the warden. The board shall provide for the lodging of such guards as may be required by them to remain at the penitentiary during the night. (75 v. 17.)

SECTION 2185. Bible for, and preaching to convicts. The warden shall furnish each convict with a Bible, and, as often as he may think proper, permit regular ministers of the gospel to preach to the convicts. (77 v. 161.)

SECTION 2186. Escaped convicts to be arrested and returned. The warden shall arrest, or cause to be arrested, and again committed to the penitentiary, a convict who escapes therefrom and is found at large within this state, whether the term for which he was sentenced to imprisonment in the penitentiary has or has not expired. (33 v. 14.)

SECTION 2187. Warden's account to be balanced monthly. The warden shall balance his cash account each month and report it to the board of managers, if in session, or at the first meeting thereafter, and on the fifth week-day of each month shall furnish the auditor of state a detailed report of his receipts during the preceding month and pay into state treasury so much of the funds in his hands as in the opinion of such board, is not required for the current use of the penitentiary. (75 v. 17.)

SECTION 2188. Money due the prison to be paid to warden. No money shall be paid to the steward for or on account of any claim due the penitentiary for sales made or other acts done by him, but all money so due shall be paid to the warden. Duplicate accounts thereof shall be made by the steward, one to be retained by him, and the other certified to the warden. When money is paid to the warden, he shall give a receipt therefor which shall be entered upon the books by the clerk and payment to the warden alone shall discharge such liability. (73 v. 37.)

SECTION 2189. Revenues paid to warden. All revenues of the penitentiary, except as otherwise provided by law, shall be paid to the warden. (73 v. 38.)

SECTION 2192. Duties of clerk. The clerk shall keep the accounts of the penitentiary in such a manner as to accurately exhibit the financial transactions relating to it. He shall keep a register in which shall be entered the name of each convict, the crime for which he was convicted, the date of conviction, the period of sentence, from what county and by what court sentenced, his nativity, an accurate description of his person, and, if known, whether he has been previously confined in a penitentiary in this state, or elsewhere, and when and how he was discharged. (73 v. 36.)

SECTION 2193. Clerk to render monthly statement to auditor of state. On or before the fifth week-day of each month the clerk shall make, and the warden certify and deliver to the auditor of state, a statement of the amount due from each contractor for the preceding calendar month. The warden shall deliver to each contractor a certified copy or so much thereof as relates to such contractor. Within five days thereafter, in the mode prescribed by law, each contractor shall pay the amount due into the state treasury and obtain triplicate receipts therefor, one of which shall be delivered to the auditor of state, and one to the warden. If the contractor fails to pay such amount within ten days from the date of rendering the statement, the auditor of state shall give such statement to the attorney general for collection. When collected, the attorney general shall take triplicate receipts therefor from the state treasurer and deliver one to the auditor and one to the warden. (78 v. 53.)

SECTION 2194. Physicians to keep record of vital statistics. The physician shall keep a correct record of vital statistics of the penitentiary, containing the name, nationality or race, weight, stature, former occupation and family history of each prisoner, a statement of the condition of the heart, lungs and other leading organs, rate of pulse and respiration, measurement of the chest and abdomen, condition of the inguinal canal and the arch of the foot, and any existing disease, deformity, or other disability acquired or inherited. He shall perform such other duties in the line of his profession as the board of managers requires. (75 v. 17.)

SECTION 2195. Establishment of day school at penitentiary. The Ohio board of administration may establish, at the penitentiary, an elementary day school for uneducated prisoners, and cause the same to be so conducted as to afford to such prisoners, so far as practicable, the advantages of a common school education. To that end it may employ a competent and efficient superintendent of the school and such number of

assistants and teachers as, in its opinion, may be deemed necessary. The board may provide school rooms and necessary furniture, books, stationery, supplies and apparatus. (103 v. 273.)

SECTION 2195-1. Branches taught. The branches of education which shall be taught in such school shall be reading, writing, spelling, and arithmetic and English grammar. (103 v. 274.)

SECTION 2195-2. Optional branches or departments. The board may establish and maintain manual training, domestic science and commercial departments. The nature of alcoholic drinks and other narcotics, and their effects on the human system, may be included in the branches to be regularly taught, and instruction and training may be given in such other branches as may, from time to time, be directed by the board. (103 v. 274.)

SECTION 2195-3. Designation of attendants and graded course of study. The superintendent, having regard to previous education and intellectual capacity, shall designate the prisoners who shall attend such school. He shall prescribe a graded course of study in branches named in section two, and classify and regulate, and prescribe tests for the promotion of prisoners according to attainments from one grade to another. He shall assist and direct the teachers in the performance of their duties and perform such other functions as the board may determine; and he shall, with the approval of the board, prescribe rules and regulations for the management and government of the school. (103 v. 274.)

SECTION 2195-4. Examination and promotion. Examinations may be held for promotion and the questions for examination for such promotion shall be uniform and prepared under the direction of the superintendent. Only such prisoners as receive, on examination, an average grade of seventy per centum, with no grade less than fifty per centum, in any branch, shall be passed. (103 v. 274.)

SECTION 2195-5. School week; school month; course of study. Such school shall be held not less than two hours each day, Sundays excepted. A school week shall consist of six days and a school month of four school weeks. A course of study shall consist of not less than four recitations a week, continued for a period of forty weeks. The school shall be classified into such number of grades as the superintendent shall prescribe. (103 v. 274.)

SECTION 2195-6. Diminution of sentence for advancement in grades. A prisoner, other than one sentenced for life, attending such school, shall be entitled to one month diminution of his sentence for each advancement in grade, which diminution shall not be forfeited or taken away because of violation of any rule of discipline or for any other cause. The record in the school of a prisoner sentenced for life shall be given special consideration in an application for pardon, parole or commutation of sentence. (103 v. 274.)

SECTION 2195-7. Prisoners may be assigned as teachers. Educated prisoners may be assigned to duty as teachers in such school. The board of administration shall adopt rules for the diminution of the sentence of such teachers, and the time so gained under such rules shall not be forfeited or taken away for any cause. (103 v. 274.)

SECTION 2195-8. Monthly reports. The superintendent shall make monthly reports to the board of administration with respect to the management and progress of the school and as to all matters under his supervision. (103 v. 275.)

SECTION 2196. No contractor or person interested in business at penitentiary to be appointed to office. A person shall not be appointed to office at the penitentiary, or employed therein on behalf of the state, who is a contractor, his agent or employe, or interested in business carried on therein. Should an officer or employe become such contractor, his agent or employe, or interested in such business, it shall be cause for his removal. A person who is not a citizen of the state or is less than twenty-one years of age shall not be appointed to an office in the penitentiary nor shall a person be appointed to office or employed therein, who is in the habit of using intoxicating liquors. A single act of intoxication shall justify a removal or discharge. (75 v. 17.)

SECTION 2197. Officers shall not receive other compensation than herein prescribed. An officer shall not receive compensation for his services other than herein prescribed, or for an act or service which he may perform for or on behalf of a contractor, his agent or employe. An officer violating this section shall be dismissed and a contractor, his agent or employe, concerned in such violation, shall be expelled from the penitentiary and not again permitted within it in such capacity. (75 v. 17.)

SECTION 2198. Officers, contractors, etc., shall not deal with convicts. No officer or employe of the penitentiary, contractor or his employe, shall make a present to, receive a present from, or have barter or dealings with a convict. Every such violation shall be subject to the penalty prescribed in the next preceding section. (73 v. 242.)

SECTION 2199. Removals and suspensions. An officer appointed by the board of managers, or by the warden with the consent of such board, may be suspended or removed by the board for delinquency in the discharge of his duty, misconduct in office or other cause which materially affects his usefulness. The reasons therefor shall be fully stated upon the journal of the board. For like cause such officer may be suspended by the warden, who shall present to the board, in writing, at the next meeting, his reasons therefor. If the suspension is approved, the officer shall be discharged, if not, he shall be reinstated, and the board may order that he shall receive pay during the time of such suspension. (73 v. 36.)

MISCELLANEOUS

SECTION 2200. Visitors to the penitentiary. The governor, heads of departments, members of the general assembly and such other persons as the warden designates, shall be admitted as visitors within the walls of the penitentiary free of charge. Other visitors may be charged a reasonable sum which shall be prescribed by the board of managers. The warden shall procure suitable tickets to be sold by the clerk, who shall keep an account thereof and pay the money therefrom to the warden daily. The guard at the door of the guard room shall receive the tickets, keep an ac-

count thereof in a book as they are received and return them to the warden each day before the penitentiary is closed. (75 v. 17.)

SECTION 2201. Laws, etc., regulating intercourse with prisoners to be posted. The board of managers shall cause a copy of the laws of the state and by-laws of the board relating to intercourse between visitors and prisoners to be placed in a conspicuous location within the penitentiary. (33 v. 14.)

SECTION 2202. When convict is sick. One or more apartments in the penitentiary shall be prepared for an infirmary. When the attending physician considers a convict so ill as to require removal from work or solitary confinement he shall be placed in such infirmary until the physician reports to the warden that he is in a proper condition to be removed. The warden shall then order him back to his former labor or cell. (33 v. 14.)

SECTION 2203. When convict insane at expiration of sentence. If a convict be insane at the expiration of sentence, the warden shall give written notice thereof to the probate judge of the county from which he was sent, who shall forthwith issue his warrant to the sheriff of such county commanding him to return such insane convict to such county. Upon receipt of the warrant, the sheriff shall execute it forthwith and will make return thereof to the probate judge. Thereupon the probate judge shall forthwith order such insane person to be confined or otherwise disposed of as directed by law. The sheriff shall receive like compensation as for transferring a prisoner to the penitentiary, and the auditor of the county shall draw an order upon the county treasurer therefor. If a probate judge, after being so notified by the warden, neglects to issue such warrant, or if a sheriff neglects to remove such insane convict, the warden shall cause such convict to be removed and returned to the county from which he was sent in charge of an officer of the penitentiary, or some other suitable person. The cost of removal shall be paid from such county treasury upon the warrant of the county auditor. (75 v. 17.) (See Sec. 1985.)

SECTION 2204. Board shall provide apartments for insane convicts. The board of managers shall cause to be erected by convict labor or otherwise, a suitable department for the reception of insane convicts. Such department shall be capacious enough to accommodate the convicts who become insane in the penitentiary. (43 v. 73.) (See Sec. 1985.)

SECTION 2206. Convicts to perform only such labor as board approves. Work, labor or service shall not be performed by a convict within the penitentiary unless it be expressly authorized by the board of managers. (73 v. 40.)

NEW OHIO PENITENTIARY*

(Passed April 19, 1913.)

AN ACT

To provide for the appointment of a commission to acquire a site, and to prepare and adopt plans for the erection thereon of a new penitentiary.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Ohio penitentiary commission. There is hereby created the Ohio penitentiary commission, to be composed of four members, to be appointed by the governor within thirty days after this act goes into effect. The members of said commission shall serve without compensation and be removable at any time at the pleasure of the governor. (103 v. 247.)

SECTION 2. Chairman and secretary. The governor shall designate one of the appointees to said commission as chairman thereof. The governor shall appoint a secretary to said commission who shall serve without compensation, and shall be removable at any time at the pleasure of the governor. (103 v. 247.)

SECTION 3. Location of office. Such commission shall be provided with and shall keep and maintain its office in the offices of the board of administration in the city of Columbus. It shall be furnished by said board of administration with necessary office furniture, supplies and appliances. (103 v. 247.)

SECTION 4. Where meetings held; record. All regular meetings of said commission shall be held in its office; but it may hold session in any place within the state of Ohio. A majority of such commission shall constitute a quorum to transact business. The commission shall keep a record of all its proceedings, which record shall be a public record; all voting shall be had by calling each member's name by the secretary, and each member's vote shall be recorded on the proceedings as cast. Said commission shall meet at the call of the chairman or of any two members thereof. No vacancy shall impair the rights of the remaining commissioners to exercise all the powers of the commission until such vacancy is filled. (103 v. 247.)

SECTION 5. Expenses. The members of said commission, and the secretary thereof, shall be entitled to receive from the state their expenses while traveling and engaged on business on the commission within or without the state. Such expenses shall be presented in an account verified by the person who incurred the expense, approved by the chairman of commission, and shall be audited and paid as other similar expenses are audited and paid. (103 v. 247.)

SECTION 6. Clerks, stenographers and assistants. Said commission may employ such clerks, stenographers and assistants as may be necessary, and fix their compensations. Such employment and compensation to be subject to the approval of the governor. (103 v. 248.)

*Attorney-General did not consider this act of sufficient permanency to assign sections numbers of the general code.

SECTION 7. Selection, purchase or appropriation of site. Such commission is authorized, directed and empowered to proceed to purchase or procure by appropriation, in the manner hereinafter provided, and cause to be deeded to the state of Ohio by good and sufficient deed a site consisting of not less than one thousand (1,000) nor more than two thousand five hundred (2,500) acres of land, so situated and of such quality as in the judgment of the commission will provide a site suitable and fit for a new penitentiary. The selection of said site, and the determination of the number of acres requisite to compose the same, and the amount to be paid therefor shall each and all be subject to the approval of the governor. (103 v. 248.)

SECTION 8. How payment shall be made. Upon the issue of proper vouchers, signed by all the members of said commission, and the approval of the attorney general as to the title of such land and audit of state shall issue warrants upon the treasurer of state, for such amounts as the commission shall certify, in payment therefor. (103 v. 248.)

SECTION 9. Notice to governor upon inability to purchase. If, in the judgment of said commission, after it has selected a suitable site, it is unable to purchase the same at a reasonable price, the commission shall, in writing, notify the governor of such fact. The governor shall thereupon notify the attorney general of such fact and direct him to proceed in the manner hereinafter provided to appropriate such lands as the commission may designate as a site for the erection of a new penitentiary. (103 v. 248.)

SECTION 10. Attorney general shall proceed in appropriation of property. In the appropriation of such lands the attorney general shall proceed in the manner provided by law for the appropriation of property by municipal corporations, and shall exercise all the power and discharge all the duties as representative of the state of Ohio which are imposed by law upon the city solicitor with regard to such proceedings on behalf of such municipal corporations. All the provisions of sections 3681 to 3697, inclusive, of the General Code, shall insofar as the same are appropriate and applicable, govern the proceedings herein. (103 v. 248.)

SECTION 11. Duties of commission as to plans. Such commission shall prepare ground plans of and plans for the erection of a new penitentiary in its entirety, or for any building, groups of buildings, or any parts or units of the new penitentiary, upon the site so purchased or appropriated by the state; it shall, by visitation or otherwise, secure information, employ a competent architect, and do whatever else may be necessary and essential to obtain the best possible plans for this purpose. The compensation of such architect shall be fixed by the commission, and shall, together with other expenses incident to the preparation of such plans, be paid in the same manner as other expenses of the commission. The employment and compensation of such architect shall be subject to the approval of the governor. (108 Pt. I, v. 145.) (As amended April 17, 1919.)

SECTION 12. Exhibition of plans in state house. Before any ground plans or plans for the erection of a new penitentiary, or of any building, or groups of buildings or any parts or units of the new penitentiary, are

finally approved and adopted by the commission, such plans shall be exhibited in the state house for not less than fifteen days, and any criticism of the same shall be considered by such commission in determining whether such plans shall be finally adopted. (As amended April 17, 1919.) (108 Pt. I, v. 145.)

SECTION 13. Adoption of plans; approval. Such commission shall determine what ground plans and plans for the erection of the new penitentiary in its entirety, or for any building, groups of buildings, or any parts or units of the new penitentiary shall be adopted by formal vote of the commission at a public meeting. The plans adopted by the commission shall thereupon be submitted to the governor for his approval; if approved by him such plans shall be the final plans for the erection of the new penitentiary in its entirety, or for any building, groups of buildings, or any parts or units of the new penitentiary, and thereafter shall not be changed except when necessary, and then upon the consent of the governor, the penitentiary commission and the board of administration. (As amended April 17, 1919.) (108 Pt. I, v. 145.)

SECTION 14. Board of administration empowered to construct penitentiary. Upon the final approval of such plans, or upon the final approval of the final plans of any building or groups of buildings or any part or units of the new penitentiary, the Ohio board of administration is authorized and empowered to construct such building or groups of buildings or any parts or units of such new penitentiary, or such new penitentiary in its entirety, upon said site so purchased or appropriated by the state, out of funds to be appropriated for that purpose by the General Assembly, such construction in all things to conform to and be governed by the plans approved as provided by this act. After the final approval of such plans in whole or in part as herein provided, and during the period of construction of any building or groups of buildings or any parts or units of said new penitentiary, and until such new penitentiary is wholly completed, the penitentiary commission, in addition to the performance and execution of other duties and powers in this act conferred upon it shall, until relieved by the governor, act in an advisory capacity to the board of administration; such construction, including the preparation and grading and laying out of said site, shall be done, so far as possible, by prisoners of the penitentiary or the prisoners of any other penal or reformatory institution of the state of Ohio. Before the board of administration shall proceed to do any work other than by the direct labor of prisoners, the approval of the governor shall be first secured. (As amended April 17, 1919.) (108 v. Pt. I, 146.)

SECTION 15. Letting contracts. Work on said site and buildings which cannot be performed by the direct labor of prisoners, the board of administration shall award by contract. In letting such contracts and in erecting said buildings the board of administration shall be governed in all things by the provisions of sections 2314 to 2332, inclusive, of the General Code of Ohio governing the erection, alteration and improvement of state buildings; except that it may accept the bid of any contractor as to all or a part of the work and may do a part of the work by direct labor of the prisoners in the penitentiary. Before any

contract is entered into by the board of administration it shall be submitted to the governor who shall hear any complaints against the same, and at his discretion may order the board to readvertise. The board of administration may adopt such other provisions as to the terms of such bids and in the letting of contracts as it may deem necessary. (As amended April 17, 1919.) (108 v. Pt. I, 146.)

SECTION 16. Legal adviser. The attorney general shall be the legal adviser of the penitentiary commission; he shall approve all contracts and may attend all meetings, and in case of request shall attend meetings. (103 v. 250.)

SECTION 17. Appropriation. That for the purpose of providing a fund for the acquisition of the land to constitute a site for the new penitentiary contemplated by this act, and defraying the expenses incident thereto (which expenses shall include all expenditures of the Ohio penitentiary commission authorized by this act) there be and there is hereby appropriated out of the general revenue fund of the state of Ohio, not otherwise appropriated, the sum of two hundred and fifty thousand dollars (\$250,000.00). (103 v. 250.)

PROVISIONS APPLYING TO PENAL INSTITUTIONS

PROBATION

SECTION 2210. Effect of order of probation. When a sentence to the penitentiary or to the reformatory has been imposed, but execution thereof has been suspended and the defendant placed on probation, the effect of such order of probation shall be to place the defendant under control of the management of the board of managers of the institution to which he is sentenced and he shall be subject to the same rules and regulations as apply to persons paroled from such institutions. (99 v. 340.)

SECTION 2211. Blank forms furnished to clerk of courts. The board of managers of the penitentiary and of the reformatory shall furnish the clerk of courts of each county with blank forms setting forth the requirements and conditions used by them in the parole of prisoners of their institutions, amended so as to be applicable to cases of probation. (99 v. 340.)

SECTION 2212. Appointment of field officers. The board of managers of the penitentiary and of the reformatory, respectively, shall appoint and employ one or more officers, to be known as field officers, for their respective institutions. Such officers shall carefully look after the welfare of all persons whose sentences have been suspended, and those who have been paroled from such institutions. (99 v. 340.)

SECTION 2213. Arrest of convict on probation; managers may terminate probation. If a person placed upon probation fails to conduct himself in accordance with the rules and regulations of the institution in whose charge he has been placed, a field officer thereof, without warrant or other process, because of such failure, may arrest and convey him to the institution and the board of managers, after full investiga-

tion and a personal hearing, may forthwith terminate the probation and cause him to suffer the penalty of the sentence previously suspended. A person who has violated the conditions of his probation, upon order of the board of managers, shall be subject to arrest in like manner as an escaped convict. In case of termination of probation, the original sentence shall be considered as beginning upon the first day of his imprisonment in the institution. (99 v. 341.)

SECTION 2214. Discharge of convict on probation. When a person has satisfactorily met the conditions of his probation, the board of managers shall issue to him a final discharge from further supervision, but the length of the period of probation shall not be less than the minimum nor more than the maximum term for which he might have been imprisoned. (99 v. 341.)

SECTION 2215. Salaries; how paid. Upon presentation of itemized vouchers properly approved by the board of managers, the auditor of state shall issue his warrant upon the state treasurer to pay the salaries and necessary expenses of field officers from the appropriation for conviction and transportation of convicts. In like manner shall be paid the salaries and expenses of the parole officers of the boys' industrial school and the girls' industrial home. (99 v. 341.)

INSANE CONVICTS

(See Sections 1841-9 and 1985. Authority for transfer to Lima.)

SECTION 2218. Detention; clothing; certificate of conviction. Such insane convict shall be received into such hospital and detained there until lawfully discharged. The warden or officer before so transferring the convict, shall see that he is physically clean, and provided with a new suit of clothing such as is furnished convicts upon their discharge from the penitentiary. At the time of transfer there shall be transmitted to the superintendent of the hospital, the original certificate of conviction. (98 v. 237.)

(See Section 1999. Expenses for Clothing.)

SECTION 2219. Costs, how paid. The costs necessarily incurred in determining the question of such insanity, including the fees of the medical examiners and the cost of transferring the convict to the hospital, shall be paid from the current expense fund of the institution from which the transfer is made or sought to be made. (98 v. 237.)

SECTION 2220. Term of detention. An insane convict under indeterminate sentence, transferred from the penitentiary or the reformatory to the Lima state hospital, shall be detained at such hospital for the maximum term of sentence provided by law for the offense of which the convict was convicted, unless sooner restored to reason. (98 v. 238.)

(See Sections 1995-1997. Deportation of insane convicts after expiration of sentence.)

SECTION 2221. Proceedings when convict restored to reason. When an insane convict confined in the Lima state hospital, whose term of sentence has not expired, has been restored to reason, and the superintendent of the hospital so certifies in writing, he shall be transferred forth-

with to the penitentiary or reformatory from which he came. The officer in charge shall receive such convict into the penitentiary or reformatory. (98 v. 240.)

SECTION 2222. Insane convict. When a convict in a penitentiary or the reformatory becomes insane, the warden of the penitentiary or the superintendent of the reformatory shall give notice to the physician thereof, who shall forthwith examine the convict. If upon examination, he is of opinion that the convict is insane, the physician shall so certify to the warden, or superintendent. If the Lima state hospital is not then open to receive such convict, the warden shall forthwith confine the convict in the insane department of the penitentiary. The superintendent shall present to the board of managers of the reformatory the certificate of such physician. In such case the board of managers may order the superintendent to remove the convict to the Columbus state hospital, and the superintendent of such hospital shall set apart a portion of the hospital wherein such convicts shall be confined. (99 v. 480.) (See Sec. 1841-9 G. C.)

SECTION 2223. Transfer to Columbus state hospital. Should it be necessary after a convict is so confined in the insane department of the penitentiary, evidenced by the certificate of the superintendent of the Columbus state hospital and the physician of the penitentiary, the board of managers of the penitentiary may order the warden to remove such insane convict to the Columbus state hospital and the superintendent shall set apart a portion of the hospital wherein such insane convict shall be confined. (99 v. 480.) (This Section applicable only in case convict's physical condition prevents transfer to Lima.)

SECTION 2224. Return to prison when restored. When the physician of the penitentiary certifies to the warden thereof, that an insane convict confined in the insane department of the penitentiary, or when the superintendent of the Columbus state hospital certifies to the warden of the penitentiary or to the superintendent of the reformatory that a convict from such institution so confined in such hospital, is so far restored to his proper mind, that it is safe to put him at labor under his sentence the warden or superintendent of the reformatory, as the case may be, shall remove such convict from the hospital and return him to the prison and put him at labor under his sentence. (99 v. 480.)

SECTION 2225. Epileptic convict. If a convict is suffering from epilepsy when received at the reformatory or develops such disease after being received, the superintendent shall give notice to the physician of the reformatory, who shall forthwith examine the inmate. If upon examination, he is of the opinion that such inmate is suffering from epilepsy, he shall so certify to the superintendent, who shall present to the board of managers of the reformatory such certificate of the physician, and the board may order the superintendent to remove such epileptic inmate to the Ohio hospital for epileptics, and the superintendent thereof shall set aside a portion of the hospital wherein such epileptic shall be confined. (99 v. 480.)

SECTION 2226. Return of epileptic to labor. When the superintendent of the Ohio hospital for epileptics certifies to the superintendent of

the reformatory that an epileptic convict confined in such hospital, as provided in the preceding section, is so far restored to health that it is considered safe to put him at labor under his sentence, the superintendent of the reformatory shall remove such convict to such reformatory and put him at labor under his sentence. (99 v. 480.)

SECTION 2227. Medical attention to insane convicts. The physician of the penitentiary or reformatory shall give such medical and surgical treatment to insane convicts while confined in the penitentiary or reformatory as the nature of the case requires. Insane convicts while confined in the Columbus state hospital shall receive the care, attention and medical treatment, and be subject to the rules provided for other inmates. (99 v. 480.)

CONTRACT LABOR PROHIBITED; NATURE OF WORK; DISPOSAL OF PRODUCTS.

(See Sections 1845-1847; 1858-1859; 1866; 2183-1-2.)

SECTION 2228. Employment of convicts. The board of managers of the Ohio penitentiary, the board of managers of the Ohio state reformatory, or other authority, shall make no contract by which the labor or time of a prisoner in the penitentiary or reformatory, or the product or profit of his work, shall be let, farmed out, given or sold to any person, firm, association or corporation. Convicts in such institution may work for, and the products of their labor may be disposed of, to the state or a political division thereof, or for or to a public institution owned or managed and under the control of the state or political division thereof, for the purpose and according to the provisions of this chapter. (98 v. 177.)

SECTION 2229. Convicts shall be employed. The board of managers of the penitentiary and the board of managers of the reformatory, so far as practicable, shall cause all prisoners serving sentences in such institution, physically capable, to be employed at hard labor for not to exceed nine hours each day other than Sundays and public holidays. (98 v. 177.)

SECTION 2230. Nature of work by convicts. Such labor shall be for the purpose of the manufacture and production of supplies for such institutions, the state or political divisions thereof; for a public institution owned, managed and controlled by the state or a political division thereof; for the preparation and manufacture of building material for the construction or repair of a state institution, or in the work of such construction or repair; for the purpose of industrial training and instruction, or partly for one and partly for the other of such purposes; in the manufacture and production of crushed stone, brick, tile and culvert pipe, suitable for draining wagon roads of the state, or in the preparation of road building and balasting material. (98 v. 177.)

SECTION 2230-1. Provision for transmission to public institutions. Such labor shall also be for the purpose of the production of electric current for such institutions; and for the purpose of transmitting such electric current such board of managers and other authorities are here-

by authorized to make and enter into contracts with individuals, firms and public and private corporations, owning and maintaining pole lines or conduits for the running of the wires necessary for the transmission of such electric current, and as a consideration therefor, grant to such persons, firms, public or private corporations the privilege to establish poles, wires and conduits within the penitentiary grounds in the places and manner specified by the penitentiary managers. (102 v. 418.)

SECTION 2231. Disposition of products. Such tile, brick and culvert pipe and road building material and such products of convict or prison labor as are used in the construction or repair of the public roads shall be furnished the political divisions of this state at cost. The convicts from the penitentiary shall not be intermingled with the convicts from the reformatory in the performance of such labor. (98 v. 177.)

SECTION 2232. Township trustees and county commissioners may call for supplies. The trustees of a township or the board of commissioners of a county may make application to the board of managers of the penitentiary or to the board of managers of the reformatory for supplies manufactured under the provisions of this chapter or for road building material, machinery, tools or other appliances so manufactured, needed or required by them for the public institutions under their charge or for the construction, improvement or repairing of public roads in their respective townships or counties. They shall obligate themselves to use such road material according to the rules and regulations approved by the state highway commissioner. (98 v. 178.)

SECTION 2233. Managers may lease or purchase beds of limestone. The board of managers of the penitentiary or the board of managers of the reformatory may lease or purchase beds of limestone, or other suitable road building material, after they are approved by the state highway commissioner as being suitable for the construction of roads. No contract for the purchase or leasing thereof shall be made until it is approved by the governor and the state highway commissioner. (98 v. 178.)

SECTION 2234. Managers may lease plant for manufacturing. Such boards may lease and operate plants for the manufacture of bricks or road building material, or supplies, needed for the construction and maintenance of public roads, which shall be furnished at cost to a township or county proportionately as demanded. No contract for the lease of such plant as provided shall be operative until approved by the governor and the state highway commissioner. (98 v. 178.)

SECTION 2235. Prison labor only to be used. Such beds of limestone or other suitable road building material or plants for the manufacture of road building material, supplies or machinery, as herein provided, shall be operated by prison or convict labor, and the products thereof shall not be disposed of except to a township or county in this state for the construction, repair or maintenance of public roads outside of the limits of incorporated cities or villages. No contract shall be made under the provisions of this chapter unless the money to pay for it has been lawfully appropriated. (98 v. 178.)

SECTION 2235-1. Erect buildings and equip stone quarry and crushing plant. That the board of managers of the Ohio penitentiary shall erect upon the said land described in this act, such building or buildings as are necessary for the operation of a stone crushing plant, and quarry and shall equip the said building or buildings for the purpose of manufacturing and the production of crushed stone and in the preparation of road building and ballasting materials to be sold by the board of managers of the Ohio penitentiary in the open market, and may also conduct the business of quarrying and selling dimension and other stone. (102 v. 106.)

SECTION 2235-2. Detail prisoners upon requisition of board. The warden of the Ohio penitentiary shall, upon the requisition of the board of managers, detail the prisoners needed in the erection, equipment and maintenance of said building or buildings, and shall also detail to the board of managers the prisoners needed to properly operate said stone crushing plant and quarry; but the warden shall furnish the guards and shall have control of the discipline of the prisoners and shall be responsible for their safe keeping and shall maintain and safely transport any prisoners detailed for work at the said stone crushing plant. (102 v. 106.)

SECTION 2235-3. Employment of architect, engineer, superintendent, etc. That said board of managers is authorized and directed to employ a competent architect or architects, engineer or engineers, superintendent or superintendents, and supervisors of labor in the erection, equipping and maintaining said stone crushing plant and quarry specified in section 2, [G. C. § 2235-1], of this act; and before erecting the said building or buildings and equipping the same as provided herein, plans and specifications therefor shall be made by a competent architect or architects and submitted to the governor and shall be approved by him.

Labor to be performed by prisoners. All labor necessary for the erection, equipping and maintaining of the said stone crushing plant and quarry, as far as possible shall be performed by the prisoners of the Ohio penitentiary; and all materials as far as practicable, shall be obtained from the lands belonging to the state.

Tools, machinery and equipment. The board of managers is authorized and directed to furnish all the proper tools, machinery and equipment necessary to carry out the provisions of this act when the same is completed and ready for operation.

The board of managers shall comply with the general provisions of the statutes of Ohio in regard to advertising and receiving bids for material and labor for the erection of public buildings. (102 v. 106.)

SECTION 2243. Purchase of supplies for the state or its institutions. No articles or supplies manufactured under the provisions of this chapter by the labor of convicts of the penitentiary or reformatory shall be purchased from any other source for the state or its institutions unless the board of managers of the penitentiary and the board of managers of the reformatory shall first certify, on requisition made to them that such articles cannot be furnished. Such requisitions shall be honored as far as possible. (98 v. 181.)

SECTION 2244. Limitation of employment of inmates of penitentiaries. The total number of prisoners and inmates employed at one time in the penitentiaries, workhouses and reformatories in this state in the manufacture of any one kind of goods which are manufactured in this state outside of such penitentiaries, workhouses and reformatories, shall not exceed ten per cent. of the number of all persons in this state outside of such penitentiaries, workhouses and reformatories employed in the manufacturing of the same kind of goods, as shown by the last federal census or state enumerations, or by the annual or special report of the commissioner of labor statistics of this state. This section does not apply to industries in which not more than fifty free laborers are employed. (90 v. 237.)

SECTION 2245. Duty of commissioner of labor statistics in relation to such employment. The commissioner of labor statistics and attorney general shall enforce the provisions of the next preceding section. When such commissioner has reason to believe that the provisions of such section are being violated, he may investigate and ascertain the entire number of persons in this state, outside of the penitentiary, reformatory or workhouses employed in such industry, and the number of prisoners and inmates in the penitentiary, reformatory and each of the workhouses in the state engaged therein. The result of such investigation shall be printed in a special report containing the number of prisoners and inmates of the penitentiary, reformatory and workhouses employed therein. Special reports under the next preceding section shall be made at intervals not exceeding five years, or oftener if deemed advisable by the commissioner of labor statistics. (90 v. 238.)

SECTION 2246. Duty of penitentiary and other managers in relation thereto. Copies of the reports mentioned in the next preceding section shall be forwarded to the managers or directors of each institution in which are employed more prisoners in one industry than is permitted by this chapter. Thereupon such managers or directors shall forthwith reduce the number of prisoners and inmates employed therein to, or within, the number permitted by this chapter to be so employed, notwithstanding any provision in a contract relating to the employment of such inmates or prisoners. The report made by the commissioner of labor statistics shall control and limit the number of prisoners and inmates which may be employed in any industry in the penitentiary, reformatory or workhouses until another report is made by him. (90 v. 238.)

SECTION 2247. Duty of attorney general in relation thereto. When the commissioner of labor statistics is satisfied that section twenty-two hundred and forty-four is being violated by the managers or directors of a penal institution, he shall advise the attorney general thereof and furnish him with information in support of his conclusions. The attorney general shall thereupon institute legal proceedings to compel compliance with the provisions of such section. (90 v. 238.)

**REPORTS, ANNUAL—SHALL BE FILED WITH GOVERNOR
AND SECRETARY OF STATE**

SECTION 2264-1. Official reports shall be made in triplicate; where filed. Each elective state officer, and the adjutant general, board of pardons, superintendent of public instruction, the state agricultural commission, the superintendent of public works, the public utilities commission, the superintendent of insurance, the state inspector of building and loan associations, the state superintendent of banks, the commissioners of public printing, the supervisor of public printing, the board of library commissioners, the state geologist, the state commissioner of soldiers' claims, the state fire marshal, the state inspector of oils, the state industrial commission, the state highway department, the state board of health, the state medical board, the state dental board, the state board of embalming examiners, the state board of charities, the Ohio commission for the blind, the state board of accountancy, the state board of uniform state laws, the state civil service commission, the commissioners of the sinking fund, the state tax commission, the clerk of the supreme court, the state board of administration, the state liquor licensing board, the state armory board, the trustees of the Ohio State university, and every private or quasi-public institution, association, board or corporation receiving state money for its use and purpose, shall make annually, at the end of each fiscal year, in triplicate, a report of the transactions and proceedings of his office or department for such fiscal year excepting, however, receipts and disbursements unless otherwise specifically required by law. Such report shall contain a summary of the official acts of such officer, board or commission, institution, association or corporation, and such suggestions and recommendations as may be proper. On the first day of August of each year, one of said reports shall be filed with the governor of the state, one with the secretary of state, and one shall be kept on file in the office of such officer, board, commission, institution, association or corporation. (106 v.508.)

SECTION 2268. Number of reports printed determined by printing commission. The annual reports of the elective state officers shall be printed in such numbers as shall be determined by the commissioners of public printing. (106 v. 508.)

LAWS FURNISHED STATE DEPARTMENTS AND INSTITUTIONS

SECTION 2279. Journals, statistics, laws, etc., furnished state departments and institutions. The secretary of state shall deliver to each elective state officer one copy of each of the journals, one copy of the "Ohio General Statistics" and two copies of the laws; to each of the other state departments and to each state benevolent, correctional or penal institution, one copy of each such publication and such further number as he deems necessary. He shall furnish such number thereof to the governor of the state as he deems necessary for distribution among the executives of other states, and for other uses and shall forward one copy of the laws to the judge, clerk, district attorney and marshal of each United States court within this state. (106 v. 508.)

SECTION 2288-2. Certification of balance required before contract. It shall be unlawful for any officer, board or commission of the state to enter into any contract, agreement or obligation involving the expenditure of money, or pass any resolution or order for the expenditure of money, unless the Director of Finance shall first certify that there is a balance in the appropriation pursuant to which such obligation is required to be paid, not otherwise obligated to pay precedent obligations. (109 v. 130.)

STATE EMERGENCY BOARD

SECTION 2312. Emergency board, how composed; organization; expenses. There shall be an emergency board to consist of the governor, or a designated officer or employee, auditor of state, attorney general, chairman of the senate finance committee, and chairman of the house finance committee. The governor, or a designated officer or employee, shall be president and the director of finance shall be the secretary of the board. The secretary shall keep a complete record of all its proceedings. The approval of four members of the board evidenced by their signatures shall be necessary in all cases in which the board is authorized to act. The chairman of the senate and house finance committee, when acting as members of the emergency board or as members of the controlling board under authority of any appropriation act, shall be paid ten dollars per day each and their necessary traveling expenses upon presentation to the auditor of state of an itemized account of the same, while engaged in their duties as such members, which shall be paid from the funds appropriated for the payment of expenses of legislative committees, upon vouchers approved by the auditor of state, and the auditor of state is hereby authorized to draw his warrants upon the treasurer of the state therefor. (109 v. 233.)

SECTION 2313. How authority obtained to make expenditures in case of deficiency or emergency. In case of any deficiency in any of the appropriations for the expenses of an institution, department or commission of the state for any biennial period, or in case of an emergency requiring the expenditure of money not specifically provided by law, the trustees, managers, directors or superintendent of such institution, or the officers of such department or commission, may make application to the emergency board for authority to create obligations within the scope of the purpose for which such appropriations were made or to expend money not specifically provided for by law. Such applicant shall fully set forth to the secretary in writing the facts in connection with the case. As soon as can be done conveniently, the secretary shall arrange for a meeting of the board, and shall notify the applicant of the time and place of the meeting and request his presence. No authority to make such expenditures shall be granted with the approval of less than two members of the board, who shall sign it. (109 v. 130.)

SECTION 2313-1. What written authority shall specify and where filed. The written authority provided for in section 2313 shall specify the amount in which and the purposes for which obligations may be created as therein provided. It shall be filed with the auditor of state

and he shall open an account in his office in accordance therewith for the payment of any obligation authorized as provided in section 2313. The applicant receiving such authority shall issue proper vouchers to the auditor of state, as provided by section two hundred and forty-four of the General Code. Upon receipt of such vouchers the auditor, if satisfied as provided in said section that the claim presented is due and payable, shall draw his warrant on the treasurer of state against any appropriation for the uses and purposes of the emergency board. (103 v. 445.)

SECTION 2313-2. Contingent appropriations and how applied. The General Assembly may provide at the time of making appropriations for the expenses of the various institutions, commissions and departments of state a contingent appropriation for the uses and purposes of the emergency board. Such appropriations unless otherwise specifically provided by law shall be applied exclusively to the payment of deficiencies in other current appropriations as provided by sections 2312, 2313, 2313-1. Except as provided in said sections, no officer, board, commission or department of state shall have authority to create any deficiency, nor incur any indebtedness on behalf of the state. The emergency board provided for in said sections may not in any biennial period authorize the expenditure of any sum or sums of money exceeding in the aggregate the amount appropriated for the uses and purposes as hereinbefore provided. (103 v. 445.)

SECTION 2313-3. How officer may attend conference or convention outside state; expenses. No executive, legislative or judicial officer, board, commission or employe of the state shall attend at state expense any association, conference or convention outside the state unless authorized by the emergency board. Before such allowance may be made, the head of the department shall make application in writing to the emergency board showing necessity for such attendance and the probable cost to the state. If a majority of the members of the emergency board approve the application, such expense shall be paid from the emergency fund. (106 v. 183.)

PUBLIC BUILDING REGULATIONS

STATE BUILDINGS

Under Section 154-40 the Department of Highways and Public Works is vested with powers and duties of State Building Commission referred to in this chapter.

SECTION 2314. Plans and estimates. Whenever any building or structure for the use of the state or any institution supported in whole or in part by the state or in or upon the public works of the state that are administered by the superintendent of public works, is to be erected or constructed, or whenever additions or alterations, structural or other improvements are to be made, or heating, cooling or ventilating plants or other equipment to be installed for the use of the state, or in or upon such public works or in or for an institution supported in whole or in part by the state, or for the supply of material therefor, the aggregate cost of which exceeds three thousand dollars, each officer, board or other authority, upon whom devolves the duty of constructing, erecting, alter-

ing, or installing the same, hereinafter called the owner shall make or cause to be made, by an architect or engineer whose contract of employment shall be prepared and approved by the attorney general and filed with the auditor of state, the following: full and accurate plans, suitable for the use of mechanics and other builders in such construction, improvement, addition, alteration, or installation; and details to scale and full sized, so drawn and represented as to be easily understood; accurate bills showing the exact quantity of different kinds of material necessary to the construction; definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needful informatoin; a full and accurate estimate of each item of expense and of the aggregate cost thereof, and such further data as may be required by the governor, secretary of state and auditor of state acting as and being the state building commission. In the absence of the governor, the secretary to the governor, in the absence of the secretary of state, the assistant secretary of state, and in the absence of the auditor of state, the deputy auditor of state, shall act as members of such commission. (107 v. 453.)

SECTION 2315. Submission to governor, auditor and secretary of state. The plans, details, bills of material, specifications of work, estimates of cost in detail and in the aggregate, form of bidding proposal and bond of bidder and other data that may be required shall be prepared on such material and in such manner and form as may be prescribed by the state building commission, and shall be submitted to such commission for its approval. If so approved the same shall be deposited and safely kept in the office of the auditor of state as the property of the state. (107 v. 453.)

SECTION 2316. Notice of time and place bids will be received. The bond provided for in sections 2315 and 2319 shall be conditioned that, if his proposal is accepted, the bidder will within ten days next after the awarding of such contract, enter into a proper contract in accordance with the proposal, plans, details, specifications and bills of material and that he will faithfully perform each and every condition of the same. Such bond shall also indemnify the state against the damage that may be suffered by failure to perform such contract according to the provisions thereof, and in accordance with the plans, details, specifications and bills of material therefor. Such bond shall also be conditioned for the payment of all material and labor furnished for or used in the construction for which such contract is made. The bond may be enforced against the person, persons or company executing such bond, by any claimant for labor or material and suit may be brought on such bond in the name of the state of Ohio on relation of the claimant within one year from the date of delivering or furnishing such labor or material, in the court of common pleas of the county wherein such labor or material was furnished or delivered, and such bonds, or sureties thereon shall not be released by the execution of any additional security, notes, retentions from estimates, or other instrument on account of such claim, or for any reason whatsoever, except the full payment of such claim for labor or material. (107 v. 454.)

SECTION 2317. How notice given, what to contain. After the proceedings required by sections 2314 and 2315 have been complied with, such owner shall give public notice of the time and place when and where proposals will be received for performing the labor and furnishing the materials of such construction, improvement, alteration, addition or installation, and a contract or contracts therefor awarded, except for materials manufactured by the state or labor supplied by the Ohio board of administration that may enter into the same. The form of proposal approved by the state building commission shall be used, and a proposal shall be invalid and not considered unless such form is used without change, alteration or addition. Bidders may be permitted to bid upon all the branches of work and materials to be furnished and supplied, or upon any thereof, or alternately upon all or any thereof. (107 v. 454.)

SECTION 2318. Award of contract. The notice shall be published once each week for four consecutive weeks, the last publication to be at least eight days next preceding the day for opening the bids, in such newspaper or newspapers, and in such form and with such phraseology as the state building commission shall order. Copies of the plans, details, bills of material and specifications shall be open to public inspection at all business hours between the day of the first publication and the day for opening the bids, at the office of the auditor of state, and such other place or places as may be designated in such notice. (107 v. 454.)

SECTION 2319. Bids may be rejected; further proceedings. On the day and at the place named in the notice, such owner shall open the proposals, and shall publicly, with the assistance of the architect, or engineer, immediately proceed to tabulate the bids upon triplicate sheets, one of which shall be filed with the auditor of state. A proposal shall be invalid and not considered unless a bond, in the form approved by the state building commission, with sufficient sureties, in a sum equal to the total sum of the proposal, is filed with such proposal, nor unless such proposal and bond are filed in one sealed envelope. After investigation which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest bidder, or bidders. No contract shall be entered into until the Industrial Commission of Ohio has certified that the corporation, partnership or person so awarded the contract has complied with each and every condition of the act of February 26, 1913, and of all acts amendatory and supplementary thereto, known as the workmen's compensation law, and until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, and until, if the bidder so awarded the contract is a person or partnership non-resident of this state, such person or partnership has filed with the secretary of state a power of attorney designating the secretary of state as his or its agent for the purpose of accepting service of summons in any action brought under the provisions of section 2316 of the General Code or under the provisions of the workmen's compensation law; and until the contract and bond shall be submitted to the attorney general and his approval certified thereon. (107 v. 455.)

SECTION 2320. How plans may be changed. If in the opinion of such owner, the acceptance of the lowest bid or bids is not for the best

interests of the state, with the written consent of the state building commission, they may accept, in their discretion, another proposal so opened or reject all proposals, and advertise for other bids, such advertisement to be for such time, in such form and in such newspaper or newspapers as may be directed by the state building commission. All contracts shall provide that such owner may make any change in work or materials on the conditions and in the manner hereinafter provided. (107 v. 455.)

SECTION 2321. Allowance for work or material under changed plans. After they are so approved and filed with the auditor of state, no change of plans, details, bills of material or specifications shall be made or allowed unless the same are approved by the state building commission. When so approved, the plans of the proposed change, with detail to scale and full size, specifications of work and bills of material shall be filed with the auditor of state as required with original papers. If such change affects the price, the amount thereof shall likewise receive such approval. (107 v. 455.)

SECTION 2322. Changes shall be in writing. Whenever such change is approved by the state building commission, accepted in writing by the contractor and filed with the auditor of state, the same shall be considered as being a part of the original contract, and the bond theretofore executed shall be held to include and cover the same. (107 v. 456.)

SECTION 2323. Certain costs shall not exceed estimate or amount authorized. No contract shall be entered into pursuant to section 2317 at a price in excess of the entire estimate thereof. Nor shall the entire cost of the construction, improvement, alteration, addition or installation including changes and estimates of expenses for architects or engineers, exceed in the aggregate the amount authorized by law for the same (107 v. 456.)

SECTION 2324. Estimates of labor and materials. At the time named in the contract for payment to the person or persons with whom it is made, such owner shall make or cause to be made, in such manner and form as shall be prescribed by the auditor of state, a full, accurate and detailed estimate of the various kinds of labor performed and material furnished thereunder with the amount due for each kind of labor and material and the material and the amount due in the aggregate, which estimate shall be based upon actual measurement of such labor and materials, and shall give the amounts of the preceding estimate or estimates and the amount of labor performed and materials furnished since the last estimate. From the total of such estimate the architect or engineer shall deduct five per centum which shall be retained as additional security for the faithful performance of the contract. (107 v. 456.)

SECTION 2325. Record of estimates; payments. Such estimates shall be filed by such owner, and a certified copy thereof delivered to the auditor of state. Upon all estimates of material furnished and delivered but not actually having entered into and become a part of such building, construction, alteration, addition, installation or improvement, and which has been inspected and approved by the architect or engineer and his certificate therefor attached to such estimate, there shall be paid a sum not to exceed fifty per centum of such estimated value, and thereupon such

material shall become the property of the state. The balance of such estimate shall be paid when such material is incorporated into and becomes a part of such building, construction, addition, improvement, alteration, or installation. (107 v. 456.)

SECTION 2326. (1326.) Warrant on estimates; five per cent. retained as security. On receipt of an estimate, the auditor of state shall carefully compare it with the contract under which the labor was performed or materials furnished, and with all previous estimates. If he finds such estimate correct, he shall number and place it on file, make a record thereof, and draw a warrant therefor for the amount thereof less deductions shown thereon. When the labor to be performed and materials furnished under the contract is performed and are furnished and a final estimate thereof made, the architect or engineer shall add to such estimate the total sum of the five per centum deductions made upon all preceding estimates. (107 v. 456.)

SECTION 2327. Payment of warrants. The treasurer of the state shall pay the warrants issued by the auditor of state under the provisions of this chapter, place them on file and keep a register of the names of the person or persons to whom they are paid. (70 v. 102.)

SECTION 2328. Duties of trustees if contractor fails to perform contract. When in the opinion of such owner, the work under any contract made in pursuance of the foregoing provisions of this chapter or any law of the state is neglected by the contractor or such work is not prosecuted with the diligence and force specified or intended in the contract, such owner may make requisition upon the contractor for such additional specific force or materials to be brought into the work under such contract or to remove improper materials from the grounds as in their judgment the contract and its faithful fulfillment requires. (107 v. 457.)

SECTION 2329. Proceedings if contractor fails to comply with requisition. Not less than five days' notice in writing of such action shall be served upon the contractor or his agent in charge of the work. If the contractor fails to comply with such requisition within fifteen days, such owner, with the written consent of the governor, auditor of state and secretary of state, may employ upon the work the additional force, or supply the special materials or such part of either, as they deem proper, and may remove improper materials from the grounds. (107 v. 457.)

SECTION 2330. Recovery against contractor. Such owner shall make separate estimates of all additional force or materials so employed or supplied, which, being certified by them, shall be paid by the auditor of state. The amount so paid shall be charged against the contractor and be deducted from his next or any subsequent estimate. The amount or any part thereof not so paid may be recovered by action from such contractor and his sureties. (107 v. 457.)

SECTION 2331. Contract shall contain provisions as to time of completion. All contracts under the provisions of this chapter shall contain provision in regard to the time when the whole or any specified portion of work contemplated therein shall be completed and that for each and every day it shall be delayed beyond the time so named the contractor shall forfeit and pay to the state a sum to be fixed in the contract, which

shall be deducted from any payment or payments due or to become due the contractor. (70 v. 102.)

SECTION 2332. Duty of attorney general. The attorney general shall have charge of and direct the proceedings necessary to enforce contracts authorized by the preceding provisions of this chapter. (70 v. 102.)

COUNTY BUILDINGS

SECTION 2333. Building commission. When county commissioners have determined to erect a court house or other county building at a cost to exceed twenty-five thousand dollars, they shall submit the question of issuing bonds of the county therefor to vote of the electors thereof. If determined in the affirmative, within thirty days thereafter, the county commissioners shall apply to the judge of a court of common pleas of the county who shall appoint four suitable and competent freehold electors of the county, who shall in connection with the county commissioners constitute a building commission and serve until its completion. Not more than two of such appointees shall be of the same political party. (98 v. 53.)

SECTION 2334. Compensation of commissioners. The persons so appointed shall receive a reasonable compensation for the time actually employed, to be fixed by the court of common pleas and on its approval paid from the county treasurer. Their compensation in the aggregate shall not exceed two and one-half per cent. of the amount received by the county from taxes raised or from the sale of bonds for the purpose of constructing the building. (98 v. 53.)

SECTION 2335. Expenses of commission. The necessary expenses for stationery, postage, correspondence and travel out of the county required in the discharge of the duties of the commission shall be paid from the county treasury on the order of the county commissioners and the warrant of the auditor. (98 v. 53.)

SECTION 2336. Oath and bond. Before entering upon the discharge of their duties, the persons so appointed shall each take an oath of office and give bond for the faithful and honest discharge of his duties in the same amount as required of county commissioners, with sureties approved by the judge of the court of common pleas. Such bond shall be delivered to the county treasurer and kept in his office. (98 v. 53.)

SECTION 2337. Vacancies. In case of the death, resignation or removal of any such member of such building commission, the vacancy shall be filled by appointment by the common pleas judge, as hereinbefore provided. (98 v. 53.)

SECTION 2338. Contracts. After adopting plans, specifications and estimates, the commission shall invite bids and award contracts for the building and for furnishing, heating, lighting and ventilating it, and for the sewerage thereof. Until the building is completed and accepted, by the building commission, it may determine all questions connected therewith, and shall be governed by the provisions of this chapter relating to the erection of public buildings of the county. (98 v. 53.)

SECTION 2339. Architects, superintendents and employes. The commission may employ architects, superintendents and other necessary employes during such construction and fix their compensation and bond. (97 v. 112.)

SECTION 2340. Plans, drawings, etc., filed with county auditor. When approved by the building commission, plans, drawings, representations, bills of materials, specifications of work and estimates of costs thereof shall be filed by the county auditor in his office and shall not be altered, unless such alteration shall first be drawn, specified and estimated as required by law for the original plans and approved by the building commission. No such change shall be made until the price to be paid therefor shall have been agreed upon in writing between the commission and the contractor. (97 v. 112.)

SECTION 2341. Proceedings of building commission. Resolutions for the adoption or alteration of plans or specifications, or awards of contracts, hiring of architects, superintendent or other employes and the fixing of their compensation, the approval of bonds, and the allowance of estimates shall be in writing and require for their adoption the votes of five members of the commission, taken by yeas and nays recorded on the journal of the county commissioners. When signed by five members of the commission, the county auditor shall draw his warrant on the county treasurer for the payment of all bills and estimates of such commission. (97 v. 113.)

SECTION 2342. Record of proceedings. Full and accurate records of all proceedings of the commission shall be kept by the county auditor upon the journal of the county commissioners. He shall carefully preserve in his office all plans, drawings, representations, bills of materials, specifications of work and estimates of cost in detail and in the aggregate pertaining to the building. (97 v. 113.)

SECTION 2343. Plans, estimates, etc., for building and bridge substructures. When it becomes necessary for the commissioners of a county to erect or cause to be erected a public building, or substructure for a bridge, or an addition to or alteration thereof, before entering into any contract therefor or repair thereof or for the supply of any materials therefor, they shall cause to be made by a competent architect or civil engineer the following: full and accurate plans showing all necessary details of the work and materials required with working plans suitable for the use of mechanics or other builders in the construction thereof, so drawn as to be easily understood; accurate bills, showing the exact amount of the different kinds of material necessary to the construction, to accompany the plans; full and complete specifications of the work to be performed showing the manner and style required to be done, with such directions as will enable a competent builder to carry them out, and afford to bidders all needful information; a full and accurate estimate of each item of expense, and of the aggregate cost thereof.

Nothing in this section shall prevent the commissioners from receiving from bidders on iron or reinforced concrete substructures for bridges the necessary plans and specifications therefor. (98 v. 21.)

SECTION 2348. Approval of plans, etc., for court house or jail. If the plans, drawings, representations, bills of material and specifications of work, and estimates of the cost thereof in detail and in the aggregate, required in the preceding sections relate to the building of a court house or jail, or an addition to or alteration, repair or improvement thereof, they shall be submitted to the commissioners, together with the clerk of the court, the sheriff and probate judge, and one person to be appointed by the judge of the court of common pleas, for their approval. If approved by a majority of them, a copy thereof shall be deposited with the county auditor, and kept in his office. (85 v. 218.)

SECTION 2394. Approval of plans, etc., for infirmary. If the plans, drawings, representations, bills of material and specifications of work and estimates of the cost thereof relate to the building, addition to, or alteration of an infirmary, they shall be submitted to the commissioners. If approved by a majority of them, a copy thereof shall be deposited in the office of the auditor and kept for the inspection and use of parties interested. (108 v. Pt. I, 267.)

SECTION 2351. Approval of plans, etc., for children's home. If the plans, drawings, representations, bills of material, specifications of work and estimates relate to the building of a children's home, they shall be submitted to the commissioners and three citizens of the county, to be appointed by a resident judge of the court of common pleas, or a judge residing in the same subdivision of the judicial district. If approved by a majority of them, a copy thereof shall be deposited with the county auditor and kept by him for the inspection of parties interested. Before such plans are adopted, they shall be submitted to the state board of charities for suggestions and criticisms. The commissioners of counties composing a district for the purpose of establishing a district children's home, in letting contracts for the necessary buildings or the repair or alteration thereof, shall be governed by the law relating to letting contracts for erecting, repairing or altering other public buildings. (85 v. 220.)

SECTION 2352. Advertisements for proposals. When plans, drawings, representations, bills of material, specifications and estimates are so made and approved the county commissioners shall give public notice in two of the principal papers in the county having the largest circulation therein, of the time when and the place where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such building, bridge or bridge substructure, or addition to or alteration thereof, and a contract based on such proposals will be awarded. If there is only one paper published in the county, it shall be published in such paper. The notice shall be published weekly for four consecutive weeks next preceding the day named for making the contract, and state when and where such plan or plans, descriptions, bills and specifications can be seen. They shall be open to public inspection at all reasonable hours, between the date of such notice and the making of such contract. (98 v. 19.)

SECTION 2353. When advertisement unnecessary. When the estimated cost of a public building, bridge or bridge substructure or of mak-

ing an addition to or repair thereof does not exceed one thousand dollars, it shall be let as heretofore provided, but notice of the letting need be given for only fifteen days, by posting on a bulletin board or by writing on a blackboard in a conspicuous place in the county commissioners' or auditor's office, showing the nature of the letting and when and where proposals in writing will be received. Plans or specifications, or both as hereinbefore provided shall be kept on file during the fifteen days and open to public inspection. (98 v. 19.)

SECTION 2354. Private contract. When the estimated cost of a public building, bridge or bridge substructure or of making an addition thereto or repair thereof does not exceed two hundred dollars, it may be let at private contract without publication or notice. (98 v. 19.)

SECTION 2355. Adjournment of letting of contracts from day to day. If they fail to make a contract as herein provided, on the day named in the notice, the commissioners may continue from day to day until it is made. Such contract, so far as it relates to the public buildings or bridge substructures, shall be awarded to and made with the person who offers to perform the labor and furnish materials at the lowest price, and gives good and sufficient bond for the faithful performance of the contract in accordance with the plan or plans, descriptions or specifications herein required, which shall be made a part of the contract. (93 v. 83.)

SECTION 2356. Contract submitted to prosecuting attorney. Before work is done or material furnished, all contracts that exceed one thousand dollars in amount shall be submitted by the commissioners to the prosecuting attorney of the county. If found by him to be in accordance with the provisions of this chapter, and his certificate to that effect is indorsed thereon, such contracts shall have full force and effect, otherwise they shall be null and void. (93 v. 83.)

SECTION 2357. Commissioners may annul old and make new contracts. If a contractor fails or refuses to proceed with the work specified in his contract in accordance with the plans, descriptions and specifications attached to and made part thereof, the commissioners may annul such contract, and shall proceed to make another contract for the completion thereof, in accordance with the provisions of this chapter. (93 v. 83.)

SECTION 2358. Contract shall not be made for price exceeding estimate. No contract shall be made for a public building, bridge or bridge substructure, or for any addition to, change, improvement or repair thereof, or for the labor and materials herein provided for, at a price in excess of the estimates required to be made by the preceding sections. (85 v. 218.)

SECTION 2359. Estimates of work done, material furnished, etc., record. At the times named in the contract for payment to the person with whom it was made, the county commissioners, or an architect employed by them to superintend the construction, shall make a full, accurate and detailed estimate of the various kinds of labor and material performed and furnished thereunder, the amount due for each kind of labor and material and the aggregate thereof, which estimate shall give

the amount of preceding estimates, and the amount of labor performed or material furnished since last estimate. Such estimate shall be recorded in a book provided by the commissioners, and kept by the auditor, who shall furnish copies of all such estimates to the contractor or contractors as they are from time to time made. (85 v. 222.)

SECTION 2360. Duty of county auditor as to estimates. When presented to him, the county auditor shall compare such estimate carefully with the contract or contracts under which such labor or materials were furnished, and with previous estimates. If he finds the last estimate correct, he shall number it, place the original on file, make a record thereof, and give to the person entitled thereto, a warrant on the county treasurer for the amount shown by the estimate to be due, retaining five per cent. thereon as additional security for the faithful performance of the contract. The amount retained shall be forfeited to the county if the contractor fails to conform to the terms and conditions of the contract. When the labor under such contract is completed or materials furnished, and a final estimate thereof is made, to the acceptance of the commissioners, architect, or builder employed by them, the county auditor shall include in his warrant the percentages so retained on former estimates. (66 v. 52.)

SECTION 2361. Duty of county treasurer. The treasurer of the county shall pay the warrants drawn under the preceding section, place them on file, and keep a register of the names of the person or persons to whom they are paid. (66 v. 52.)

GENERAL PROVISIONS

SECTION 2362. Separate bids for work and material. An officer, board or other authority of the state, a county, township, city, village, school or road district or any public institution belonging thereto, authorized to contract for the erection, repair, alteration or rebuilding of a public building, institution, bridge, culvert or improvement and required by law to advertise and receive proposals for furnishing of materials and doing the work necessary for the erection thereof, shall require separate and distinct proposals to be made for furnishing such materials or doing such work or both, in their discretion, for each separate and distinct trade or kind of mechanical labor, employment or business entering into the improvement. (85 v. 218.)

SECTION 2363. When contract shall not be awarded for entire work. When more than one trade or kind of mechanical labor, employment or business is required no contract for the entire job, or for a greater portion thereof than is embraced in one such trade or kind of mechanical labor shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids therefor in the aggregate. (85 v. 218.)

SECTION 2364. Each contract shall be for only one class of labor or material; exceptions. The contract for doing the work belonging to each separate trade or kind of mechanical labor, employment or business

or for the furnishing of materials therefor, or both, shall be awarded by such officer, board or other authority in its discretion, to the lowest and best separate bidder therefor, and shall be made directly with him or them in the manner and upon the terms, conditions and limitations as to giving bond with security and otherwise as prescribed by law, unless it is let as a whole, or to bidders for more than one kind of work or materials. The provisions of this and the preceding two sections shall not apply to the erection of buildings and other structures of a less cost than ten thousand dollars. (85 v. 218.)

SECTION 2365. Limitations on bonds; qualifications of sureties. The bonds provided for in this chapter required to be taken by a board or officer of the county, township, city, village or school district of the state shall not exceed fifty per cent. of repairing, altering or rebuilding thereof. The officers named herein may require the person or persons on the bond of the successful bidder or bidders to qualify that they are residents of the state, and jointly worth a greater sum than the amount named in the bond over and above all liabilities and exemptions allowed by law. (85 v. 222.)

SECTION 2365-1. Bond and additional obligation of contractor to pay subcontractors and material men. That when public buildings or other public work or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the state, or any county, city, village, township or school district thereof, it shall be the duty of the board, officer or agent contracting on behalf of the state, county, city, village, township, or school district, to require the usual bond as provided for in statute with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials furnished in the construction, erection, alteration or repair of such building, work or improvements. (107 v. 642.)

SECTION 2365-2. Approval of bond; conditions. Such bond shall be executed by such contractor with such sureties as shall be approved by the board, officer, or agent acting on behalf of the state, county, city, village, township or school district aforesaid, in an amount equal to at least fifty per cent. (50%) of the contract price, and conditioned for the payment by the contractor and by all sub-contractors, of all indebtedness which may accrue to any person, firm or corporation, on account of any labor performed or materials furnished in the construction, erection, alteration or repair of such building, works or improvement. Such bond shall be deposited with, and held by, such board, officer or agent for the use of any party interested therein. (107 v. 642.)

SECTION 2365-3. Creditor shall furnish statement of amount due to sureties. Any person, firm or corporation to whom any money shall be due on account of having performed any labor, or furnished any material in the construction, erection, alteration or repair of any such building, work or improvement, within ninety (90) days after the acceptance thereof by the duly authorized board or officer, shall furnish the sureties on said bond a statement of the amount due to any such person,

firm or corporation. No suit shall be brought against said sureties on said bond until the expiration of sixty (60) days after the furnishing of said statement. If said indebtedness shall not be paid in full at the expiration of said sixty days, said person, firm or corporation may bring an action in his own name upon such bond, as provided in sections 11242 and 11243 of the General Code of the state of Ohio, said action to be commenced within one year from the date of the acceptance of said building, work or improvement. (107 v. 642.)

SECTION. 2365-4. Form of bond. The bond hereinbefore provided for shall be in substantially the following form, and recovery of any claimant thereunder shall be subject to the conditions and provisions of this act to the same extent as if such conditions and provisions were fully incorporated in said bond form:

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned.....as principal
and as sureties,
are hereby held and firmly bound unto.....
.....in the penal sum of.....dollars,
for the payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this.....day of.....19...

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH,
that whereas the above named principal did on the.....day of
....., 19..., enter into a contract with.....
.....which said contract is made a part of
this bond the same as though set forth herein;

Now, if the said.....shall well
and faithfully do and perform the things agreed by.....
to be done and performed according to the terms of said contract; and
shall pay all lawful claims of sub-contractors, material men and laborers,
for labor performed and materials furnished in the carrying forward,
performing or completing of said contract; we agreeing and assenting
that this undertaking shall be for the benefit of any material man or
laborer having a just claim, as well as for the obligee herein; then this
obligation shall be void; otherwise the same shall remain in full force
and effect; it being expressly understood and agreed that the liability
of the surety for any and all claims hereunder shall in no event exceed
the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications,
omissions, or additions, in or to the terms of the said contract or in or
to the plans or specifications therefor shall in any wise affect the obligation
of said surety on its bond. (107 v. 642.)

SECTION 2366. Penalty. Whoever being an officer, violates any provision of this chapter shall be fined in any sum not to exceed one thousand dollars. (85 v. 222.)

SECTION 2419. Buildings, vaults, comfort stations, safes for county purposes; equipment. A court house, jail, public comfort station, offices

for county officers and an infirmary shall be provided by the commissioners when in their judgment they or any of them are needed. Such buildings and offices shall be of such style, dimensions and expense as the commissioners determine. They shall also provide all the equipment stationery and postage, as the county commissioners may deem necessary for the proper and convenient conduct of such offices, and such facilities as will result in expeditious and economical administration of the said county offices. They shall provide all room, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein. (108 v. Pt. I, 387.)

SECTION 2419-1. Commissioners may contract with cities for maintenance of county poor. In any county containing a city which has an infirmary, it shall be competent for the commissioners of such county, (if they find it will be conducive to economy), to agree with the director of public safety or his successor, or the proper person, persons or board in charge or control of the same of such city upon terms and conditions for the care and maintenance of the county's poor in such city's infirmary, and for such city to receive and care for such county poor in its infirmary in accordance with such agreement. The cost and expense of maintaining the county poor in the city infirmary shall be paid out of the county poor fund on the allowance of the county commissioners. (103 v. 577.)

COUNTY COMMISSIONERS

SECTION 2419-2. County may lease jail to municipality. The county commissioners may by agreement with the city council, the director of public safety or his successor or the persons or board charged with the erection, maintenance or repair of police stations, jails, police and municipal court houses and court rooms, lease to any municipal corporation in said county suitable quarters in county buildings (erected or to be erected) for municipal courts, police stations, police courts, prosecutors' offices, probationers' offices and other similar municipal purposes. Whenever the commissioners of any county have made an agreement with a municipal corporation as herein provided, such commissioners may erect county building anticipating and making provision for such municipal quarters. (107 v. 503.)

See Sections 5627 to 5639.

SECTION 2419-3. Change of name from "county infirmary to "county home." The institutions known as "county infirmaries" of the various counties of the state shall be known hereafter as "county homes." The words "infirmary" or "county infirmary" whenever they occur in the General Code of Ohio shall be construed to read "county home." The county commissioners of each county shall within sixty days after the taking effect of this act, provide a suitable sign or placard bearing the name "County Home" and place such sign on the building or grounds of such institution, displacing the original placard or sign. (108 v. Pt. I, 68.)

SECTION 2433. Purchase of land for buildings. When, in their opinion, it is necessary, the commissioners may purchase a site for a court house, or jail, or land for an infirmary or a detention home, public market place, or market house, or additional land for an infirmary or county children's home at such price and upon such terms of payment, as are agreed upon between them and the owner or owners of the property. The title to such real estate shall be conveyed in fee simple to the county. (108 v. Pt. I, 627.)

SECTION 2434. Power to borrow money and issue bonds. For the execution of the objects stated in the preceding section, or for the purpose of erecting or acquiring a building in memory of Ohio soldiers, or for a court house, county offices, jail, county infirmary, detention home, public market house, or additional land for an infirmary or county children's home or other necessary buildings or bridges, or for the purpose of enlarging, repairing, improving, or rebuilding thereof, or for the relief or support of the poor, the commissioners may borrow such sum or sums of money as they deem necessary, at a rate of interest not to exceed six per cent. per annum, and issue the bonds of the county to secure the payment of the principal and interest thereof.

Provided, that if the judge designated to transact the business arising under the jurisdiction provided for in section 1639 of the General Code of the state of Ohio, shall advise and recommend in writing to the county commissioners of any county the purchase of land for and the erection of a place to be known as a detention home, or additional land for an infirmary or county children's home, the commissioners without first submitting the question to the vote of the county may levy a tax for either or both of such purposes in an amount not to exceed in any one year two-tenths of one mill for every dollar of taxable property on the tax duplicate of said county. (108 v. Pt. I, 627.)

SECTION 2435. Interest on such bonds. The interest on such bonds shall be paid semi-annually, at the county treasury, and the principal shall be paid at such treasury at such time as the commissioners prescribe, within thirty years from the date of such indebtedness. The interest on all bonds issued for any such purpose shall become due and payable at the same time. The first payment of interest on any such bonds shall be for such portion of the six months as elapsed between the date of issue and the time specified therein for the first payment of interest thereafter, provided that in the case of bridges over streams or abandoned turnpikes, the provision of law requiring the submission of the question to the voters shall not apply. (97 v. 117.)

SECTION 2436. May sell bonds to rebuild infirmary. For the purpose of rebuilding an infirmary, or court house, destroyed by fire or other casualty, the commissioners of a county may appropriate money, levy tax, issue and sell bonds of such county in anticipation thereof, in an amount not to exceed fifty thousand dollars without first submitting to the voters of said county, the question of rebuilding such infirmary or court house, appropriating such money, levying such taxes and issuing and selling such bonds. And hereafter the county commissioners, in the construction of all court houses and offices for county officials shall provide

fire proof vaults therein in which shall be kept all the valuable records and documents belonging to the county. The provisions of section twenty-four hundred and forty-four and fifty-six hundred and sixty of the General Code shall not apply to the making of any of the improvements mentioned in this section. (101 v. 135.)

SECTION 2437. Temporary infirmary buildings. In the county in which the county infirmary building or buildings are condemned by the board of health the commissioners thereof may construct temporary buildings, appropriate money, levy tax and issue and sell bonds of such county, where necessary, in anticipation of such levy, in an amount not to exceed ten thousand dollars for the purpose of building such temporary infirmary building or buildings, without first advertising for bids as required by law. (97 v. 169.)

SECTION 2438. Bonds issued to refund outstanding bonds. The bonds so issued may be used to refund any bonds outstanding, which were issued for the purpose of purchasing the lands or erecting the buildings so acquired by the commissioners. Such bonds shall be signed by the commissioners, or any two of them countersigned by the auditor, be with or without coupons and specify distinctly the object, for which they were issued. They shall be in sums not less than fifty or more than one thousand dollars each, payable to bearer at the county treasury, with interest, at such times, not exceeding thirty years after date, as the commissioners prescribe. (99 v. 205.)

SECTION 2438-1. Procedure when county auditor unable to sign bonds because of absence or disability. Whenever, in the issuing of bonds by the board of commissioners of any county, the signature of the county auditor is necessary, either to such bonds or to any documents or certificate in connection therewith, and by reason of the absence or disability of such county auditor it is impossible to obtain his signature thereto, on application by the board of county commissioners to the common pleas court of such county, such court shall designate a deputy to such county auditor, or if there be no such deputy available, some other suitable person, to sign the name of such county auditor and if necessary, to affix his seal, to such bonds, documents or certificates, or any or all of them. In any such case such deputy or other person shall sign his own name beneath that of the county auditor and his signature shall be preceded by the words "Signed by" and followed by the words "Pursuant to order of the common pleas court of said county." All bonds, documents or certificates so signed shall have the same validity, force and effect as though signed personally by the county auditor. (109 v. 16.)

SECTION 2439. Levy of tax for interest. Annually at their June session, the commissioners shall levy such amount of taxes as will pay the interest on such indebtedness and at least one-thirtieth of the principal. The property in any city which supports the poor thereof at its own expense exclusively shall not be taxed for indebtedness created by the purchase of lands, the erection, repair, alteration, or improvement of a building or buildings for the infirmary. (99 v. 205.)

SECTION 2440. When county auditor shall levy taxes. If the commissioners refuse or neglect to levy such tax regularly, as herein provided, the county auditor shall levy the tax upon the taxable property of the county, and place it upon the tax list. All taxes levied and collected under the provisions of this chapter shall be applied to the specific objects for which they are levied, and no others. (66 v. 52.)

SECTION 2446. For what purpose may appropriate. When in the opinion of the commissioners it is necessary to procure real estate, or the right of way, or easement for a court house, jail, or public offices, or for a bridge and the approaches thereto, or other lawful structure, or public market place or market house, and they and the owner or owners thereof are unable to agree upon its purchase and sale, or the amount of damages to be awarded therefor, the commissioners may appropriate such real estate, right of way or easement, and for this purpose they shall cause an accurate survey and description to be made of the parcel of land needed for such purpose, or in case of a bridge, or the right of way and easement required and shall file it with the probate judge. Thereupon the same proceedings shall be had, as are provided for the appropriation of private property by municipal corporations. (108 v. Pt. I, 628.)

SECTION 2447. Sale of real estate not needed; application of proceeds. If, in their opinion, the interests of the county so required, the commissioners may sell any real estate belonging to the county, and not needed for public use; and, in case of the sale of such real estate not used for county purposes, the proceeds of such sale or such parts thereof as the board of commissioners may designate may be placed by the commissioners in a separate fund to be used only for the construction, equipment, maintenance or repair of other county buildings, and the provisions of Section 5638 of the General Code shall not apply to appropriations or expenditures of said fund. (106 v. 399.)

SECTION 2447-1. Procedure in sale of real estate. No sale of such real estate shall be made unless authorized by a resolution adopted by a majority of such commissioners. When such sale is so authorized a deed therefor shall be made by such board of county commissioners only to the highest responsible bidder, after advertisement once a week for five consecutive weeks in a newspaper of general circulation within such county. Such board of county commissioners may reject any or all bids and readvertise until all such real estate is sold. (106 v. 400.)

SECTION 2448. Purchase of land for hospital for insane. The board of commissioners of a county owning, or wholly or partly maintaining a hospital for the care of the insane, may purchase or acquire additional real estate which in the judgment of the directors or trustees in charge of such hospital is necessary for its use. (97 v. 81.)

SECTION 2449. When such land may be condemned. If the board of commissioners are unable to agree with the owner or owners of the land for the purchase thereof, it may appropriate such land. For that purpose, the board shall cause an accurate survey and description there-

of to be made and filed together with a petition for such appropriation with the probate judge of the county. Thereupon like proceedings shall be had in the name of the board as in case of the appropriation of private property by municipal corporations. (97 v. 81.)

SECTION 2450. How such land paid for. Payment for property so purchased or appropriated shall be made from the general funds in the county treasury to the credit of such hospital. (97 v. 82.)

SOCIAL CENTERS

SECTION 2457-3. (Sec. 2457-67.) Organization and maintenance of civic and social centers. Boards of county commissioners shall be and are hereby authorized at their discretion to provide for the organization and maintenance of civic and social centers throughout the county, to employ an expert director who shall superintend and administer the same, and to levy a tax and create a fund for the payment of all expenses involved in the social, and educational work contemplated in this act; provided, however, that any municipality carrying on similar work shall, at the option of the city council or other governing body, be exempt from the operation of this act. The board of county commissioners at their option may, or, upon petition of ten per cent. of the qualified school electors of the county shall refer the question, of providing for this social, educational and recreational work to a vote of the aforesaid electors of the county or of such portions of the same as are affected by this act. (103 v. 755.)

SECTION 2497. Institutions subject to inspection of commissioners or board of health. Each public or private hospital, reformatory home, house of detention, private asylum, reformatory and correctional institution shall be open at any and all times to the inspection of the commissioners of the county or the board of health of the township or other municipality, in which such institution is situated. (92 v. 212 § 1.)

SECTION 2498. Semi-annual visit of commissioners. Each and every county commissioner shall visit, unannounced, at least once in every six months, each private or public hospital, reformatory home, house of detention, private asylum, or any institution exercising or pretending to exercise a reformatory or correctional influence over individuals, situated in his county, and note its sanitary conditions, and the condition and treatment of the inmates thereof. (92 v. 212.)

SECTION 2499. Report of investigations. Such county commissioners shall file with the prosecuting attorney of the county a full and complete report of the investigations of such institutions, which report shall be open to the examination of the public. (92 v. 212.)

ANTITOXIN

SECTION 2500. Application to health commissioner for antitoxin. When a physician, regularly authorized to practice medicine under the laws of the state, is called upon to treat a person suffering from diphtheria who is in indigent circumstances, or a child suffering from

diphtheria whose parents are in indigent circumstances, and he is of the opinion that antitoxin should be administered to such person or child or to others who may have been exposed to the contagion of such disease, he may make application to any health commissioner within the county therefor. (109 v. 214.)

SECTION 2501. When antitoxin shall be paid for by county. When satisfied of the indigent circumstances of the persons to be treated, such health commissioner may certify the fact to the county commissioners and immediately authorize the attending physician or any druggist to furnish such antitoxin for the persons so to be treated when such antitoxin is not available, as provided in section 1261-29 of the General Code. The antitoxin so furnished shall be paid for upon the allowance of the county commissioners from the general fund of the county. (109 v. 214.)

COUNTY HOMES (INFIRMARIES)

SEE SECTION 2419-3, for change of name.

SECTION 2522. Powers and duties of commissioners. The board of county commissioners shall make all contracts for new buildings and for additions to and repairs of existing buildings necessary for the county infirmary and shall prescribe such rules and regulations as it deems proper for its management and good government, and to promote sobriety, morality and industry among inmates. The superintendent may employ a matron and such labor from time to time, at rates of wages to be fixed by the county commissioners, as may not be found available on the part of the inmates of the institution. The superintendent and matron shall be removed if they, or either of them, require or permit inmates or employes to render services for the private interests of the superintendent, matron or member of the board of county commissioners, or any private interest. At least once a month the board of county commissioners shall make a complete inspection of the physical and sanitary conditions of the infirmary buildings and grounds and an examination into the care and treatment of the inmates thereof, unaccompanied by the superintendent or matron. The commissioners shall keep a separate book in which the clerk, or if there be no commissioners' clerk, the county auditor, shall keep a separate record of their transactions respecting the county infirmary, which book shall be known as the infirmary journal, and shall be kept in the manner provided by sections 2406 and 2407 of the General Code of Ohio, and said book shall at all reasonable times be open to public inspection. (108 v. Pt. I, 267.)

SECTION 2523. Superintendent. Salary. The county commissioners shall appoint a superintendent, who shall reside in some apartment of the infirmary or other buildings contiguous thereto, and shall receive such compensation for his services as they may determine. The superintendent and matron shall each be allowed their actual necessary expenses incurred in the discharge of their official duties. The superintendent shall perform such duties as the commissioners impose upon him, and be governed in all respects by their rules and regulations. He shall not

be removed by them except for good and sufficient cause. The commissioners may by resolution provide for the appointment by the superintendent of an assistant superintendent who shall perform such duties at the infirmary or elsewhere as may be prescribed by such superintendent. The commissioners shall not appoint one of their own number superintendent, nor shall any commissioner be eligible to any other office in the infirmary or receive any compensation as physician, or otherwise, directly or indirectly, wherein the appointing power is vested in such board. (108 v. Pt. I, 267.)

SECTION 2524. Bond. Before entering upon his duties the superintendent shall give bond to the state in a sum not to exceed twenty thousand dollars and not less than two thousand dollars, as the commissioners require, with two or more sureties to the acceptance of the commissioners, conditioned for the faithful discharge of the duties of his office. Such bond, with the approval of the board and his oath of office indorsed thereon, shall be deposited with the county treasurer and kept in his office. (102 v. 433.)

SECTION 2525. Bills shall be itemized and certified by superintendent. The superintendent shall require itemized bills for all labor performed under his direction and for articles purchased by him and provided for the use of the infirmary or the farm connected therewith. He shall certify over his official signature on the back of each bill as to its correctness and that such labor was performed or articles delivered for such uses. (93 v. 262.)

SECTION 2526. Labor. Sale of product. The superintendent and matron of the infirmary shall require all persons received therein to perform such reasonable and moderate labor, without compensation, as is suited to their age and bodily strength. The superintendent and matron shall make such purchases as may be authorized by the rules prescribed by the county commissioners. As far as practicable, all supplies shall be purchased on competitive bids, except those ordered from the state as required by law, and all supplies of whatever kind purchased and delivered to the superintendent, or to the infirmary, shall be accompanied by itemized bills, showing quantities, qualities and price, which shall be checked by the superintendent as having been received, and the correctness of the bill or claim shall be duly certified by him before the same may be allowed by the commissioners. The superintendent, under the direction of the commissioners, shall sell all products of the infirmary farm not necessary for the use of the infirmary, and pay all moneys arising therefrom into the county treasury, at least monthly, to the credit of the county poor fund. The superintendent shall have full authority to discharge inmates from the infirmary. (108 v. Pt. I, 268.)

SECTION 2527. Record to be kept by superintendent. The superintendent of the infirmary shall enter in a book to be provided for him and kept for that purpose, so far as it can be ascertained, information in reference to each person received into the infirmary as follows: Name, sex, age, nativity, date of admission, length of residence in the state, and in the county, from what township received, whether insane, idiotic

or epileptic, whether diseased, deformed, crippled, blind, deaf and dumb. date of discharge from the infirmary and reasons therefor, date of all deaths and causes thereof, the number of births, and the parentage of all children born in the infirmary. (93 v. 262.)

SECTION 2527-1. Procedure to return escaped inmates. Whenever an inmate in any county infirmary in this state shall escape therefrom or leave the same without the consent of the superintendent thereof, such superintendent, if he has reason to believe that it is for the public welfare that such inmate should be returned to said infirmary, may file in the probate court of the county in which such infirmary is located an affidavit in which he shall set forth the name and residence of said inmate, the date when he had been received in such infirmary and when he had escaped from or left the same without permission. Such affidavit shall also state the reasons why it is for the public welfare that such inmate should be returned to said infirmary. (108 v. Pt. II, 1127.)

SECTION 2527-2. Issuance of warrant. When such affidavit has been filed such probate court shall issue a warrant directed to the superintendent commanding and authorizing him to pursue after and retake such inmate. When retaken he shall be brought forthwith before such court, whereupon a hearing shall be had as in a prosecution for misdemeanor. Such inmate shall be entitled on demand to a jury trial, but if no such demand is made on his first appearance before the court it shall be deemed to have been waived and the cause shall be heard by the court alone. (108 v. Pt. II, 1127.)

SECTION 2527-3. Court may order commitment. If such court shall be satisfied that it is for the public welfare that such inmate should be returned to said infirmary it shall so order and shall issue a commitment authorizing such superintendent to take and keep such inmate in said infirmary until the further order of the court. (108 v. Pt. II, 1128.)

SECTION 2527-4. Duty of prosecutor. On the request of such superintendent the prosecuting attorney of the county shall prepare the affidavit and shall also represent the complainant at the hearing provided for herein. (108 v. Pt. II, 1128.)

SECTION 2527-5. Witnesses and fees. Witnesses may be subpoenaed on such hearing. They shall be entitled to receive the same fees and mileage to be paid in the same way and out of the same fund as witnesses in misdemeanors. Such subpoenas may be served by the sheriff or the superintendent of the infirmary. The sheriff for his services and the jurors, if any, shall receive the same fees and mileage to be paid in the same way and out of the same fund as in misdemeanors. (108 v. Pt. II, 1128.)

SECTION 2527-6. Superintendent to receive expenses only. The superintendent shall receive no extra compensation for his services under this act, except his actual expense in pursuing such inmate, to be paid out of county poor fund of said county. (108 v. Pt. II, 1128.)

SECTION 2528. Reserve fund. At the request of the superintendent, the county commissioners shall set apart from the poor fund a reserve

fund not to exceed at any time \$200.00, which upon their order shall be paid to the superintendent and expended by him as needed for emergency supplies and expenses. The superintendent shall keep an accurate account of such funds in a book to be provided at the expense of the county for that purpose and all expenditures therefrom shall be audited by the board and the poor fund shall be reimbursed by the superintendent in full for any and all items by him expended from such fund which are not allowed by the board. When, and as often as such amount is entirely disbursed, on the order of the commissioners, the county auditor shall pay to the superintendent the amount so appropriated. (108 v. Pt. I, 268.)

SECTION 2529. Certificate of amount for support. On the first Monday of March in each year, the board of county commissioners shall certify to the county auditor the amount of money they will need for the support of the infirmary for the ensuing year, including all needful repairs thereof. The county auditor shall place the amount so certified on the tax duplicate of the county, and the county commissioners shall have full control of the poor fund and shall be held responsible therefor. (102 v. 433.)

SECTION 2530. Levy. When in any county the funds applicable for the support of the poor are insufficient, the county commissioners may levy for such purpose in addition to those otherwise authorized any rate not exceeding six-tenths of a mill on the dollar of valuation. (102 v. 433.)

SECTION 2531. Vouchers, warrants, payment. The auditor shall receive vouchers given by the commissioners and counter-signed by the clerk to any person, other than the commissioners themselves, for labor, provisions, medical attendance or supplies of any kind furnished to the institution and give the person a warrant on the county treasurer for the proper amount. The treasurer shall pay the warrant from the county poor fund, and the vouchers shall show the specific item or items allowed by the commissioners or shall be accompanied by a statement in writing showing the items. (102 v. 433.)

SECTION 2532. Monthly examination of conditions. Once each month the county commissioners shall carefully examine the condition of the infirmary and the inmates, the manner in which they are fed, clothed and otherwise provided for and treated. They shall ascertain what labor the inmates are required to perform and shall inspect the books and accounts of the superintendent.

The county commissioners shall subscribe for at least two daily papers of opposite politics for the use of the inmates of the county infirmary. (108 v. Pt. I, 268.)

SECTION 2535. Annual report of superintendent. On or before the third Monday of September of each year the superintendent of the infirmary shall submit to the county commissioners a report giving all statistical information for the year preceding the first day of the month shown by the record of inmates of the infirmary required herein to be kept by the superintendent. The report shall show the whole number of

inmates at the beginning of such year, the number received during the year, the number born in the infirmary; the total number of inmates for the year, the number discharged; the number of deaths, the number removed to other counties, states and institutions during the year and the number remaining; the daily average; the whole number of children under sixteen years of age, number placed in homes and otherwise released or discharged, the number remaining..... boys,girls, the number of other inmates remaining; how many of sound mind; how many helplessly crippled; how many insanemales,females; how many epilepticsmales,females; how many idiotic.....males,females; total current expense of infirmary, exclusive of farm products for the year; total value of farm products for the year; total amount paid in county for outdoor relief during the year; amount of salaries paid during the year to superintendent and matron and amount of wages paid other employes. This report shall contain such other information as the commissioners may require and an account of all moneys received by him for the sale of farm products, or from any other sources, and by him paid into the county treasury to the credit of the poor fund, said account to be properly itemized, showing dates of receipts, from whom and for what purpose, and dates of payment of same into the county treasury. Said report shall be examined by the commissioners, and if found correct, be accepted, and such acceptance entered in the minutes of their proceedings. Such report shall then be filed in the auditor's office and by him safely preserved. (108 v. Pt. I, 268.)

SECTION 2536. Free publication of detailed statement. If in any county the proprietors or managers of two newspapers of general circulation and opposite politics notify the county auditor that they will publish free of charge a full and detailed statement of the receipts and expenditures of the county commissioners of the county for any designated month or months, the auditor shall at once so notify the county commissioners, who within twenty days shall furnish the auditor with a full account in detail of all money received and paid out by them during such month, whence it was received and to whom and for what purpose paid. (102 v. 433.)

SECTION 2537. Account. Such account shall separately state each item, showing the quantity and quality of all goods purchased and explicitly stating any special grade or brand thereof. Such statement shall also give the name of each employe in the infirmary, for what purpose employed, the salary or wages paid him each year or each month and the exact amount actually paid him during the month covered by the account. (102 v. 433.)

SECTION 2538. Further requirements of such statement. Such report shall also show the whole number of inmates at the beginning of each month; number received during each month; number born in the infirmary; total number of inmates for each month; number discharged during each month; number of deaths during each month; number removed to other counties, states and institutions; whole number remaining; daily average; whole number of children under sixteen years of age;

how many placed in homes; how many children remaining—boys—girls; of the number of children remaining, how many of sound mind; how many helplessly crippled; how many insane—males—females; how many epileptics—males—females; how many idiotic—males—females; total current expenses of infirmary exclusive of farm products, for each month; total value of farm products for each month, stating each item separately; total amount paid in the county for out-door relief during each month, including medical attention and stating especially the amount paid each contract physician over and above the contract price. (95 v. 262.)

SECTION 2539. Penalty on failure to make report. County commissioners who fail or neglect to make the report required of them by the preceding section within the time therein required shall be fined not to exceed one hundred dollars. The prosecuting attorney of the county shall prosecute in the court of common pleas any one or all of such commissioners as provided by law in similar cases. (102 v. 433.)

SECTION 2540. Removal. The superintendent of the infirmary may remove any person becoming a charge upon the county who has no legal settlement in the state, to the county and state where such person has a legal settlement. (102 v. 433.)

SECTION 2541. Insane or epileptic excluded. No insane or epileptic person shall be received or kept at any county infirmary in this state. (94 v. 166.)

SECTION 2542. Repealed. (110 v. 267.)

SECTION 2543. Admission when afflicted with contagious disease. When a child is an applicant for admission to the children's home, and a regular practicing physician, upon examination, declares that such child is afflicted with a contagious or infectious disease and no means are provided at the children's home for its separation from the other children, it shall be cared for by the superintendent of the infirmary until it becomes eligible to the children's home. (102 v. 433.)

SECTION 2544. Admission through township trustees. In any county having an infirmary, when the trustees of a township or the proper officers of a corporation, after making the inquiry provided by law, are of the opinion that the person complained of is entitled to admission to the county infirmary, they shall forthwith transmit a statement of the facts to the superintendent of the infirmary, and if it appears that such person is legally settled in the township or has no legal settlement in this state, or that such settlement is unknown, and the superintendent of the infirmary is satisfied that such person should become a county charge he shall account such person as a county charge and shall receive and provide for him in such institution forthwith or as soon as his physical condition will so permit. The county shall not be liable for any relief furnished or expenses incurred by the township trustees. (108 v. Pt. I, 269.)

SECTION 2545. Medical relief. The county commissioners may contract with one or more competent physicians to furnish medical relief and medicines necessary for the inmates of the infirmary, but no con-

tract shall extend beyond one year. Medical statistics shall be kept by said physician, who shall report same to the county commissioners quarterly showing the nature and extent of the services rendered, to whom, and the character of the diseases treated. The commissioners may discharge any such physician for proper cause. No medical relief for persons in their homes shall be furnished by the county, except for persons who are not residents of the state or county for one year, or residents of a township or city for three months, and except under provisions of section 2544. (108 v. Pt. I, 269.)

SECTION 2548. When county charge is owner of property. When a person becomes a county charge or an inmate of a city infirmary and is possessed of or is the owner of property, real or personal, or has an interest in remainder, or in any manner legally entitled to a gift, legacy or bequest, whatever, the county commissioners or the proper officers of the city infirmary shall seek to secure possession of such property by filing a petition in the probate court of the county in which such property is located, and the proceedings therefor, sale, confirmation of sale, and execution of deed by such county commissioners or officer of the city infirmary shall in all respects be conducted as for the sale of real estate by guardians. The net proceeds thereof shall be applied in whole or in part, under the special direction of the county commissioners or the proper city officer as is deemed best, to the maintenance of such person, so long as he remains a county charge or an inmate of a city infirmary (108 v. Pt. I, 270.)

SECTION 2549. Proceeds to credit of person. The net proceeds arising from the sale of such property shall be paid to the county or city treasurer, and by him placed to the credit of such person to be paid out on the warrant of the county auditor, upon the order of the county commissioners, or by the city auditor upon the order of the proper officer of the infirmary. The superintendent shall open an account with the person and charge him with board at a reasonable rate and items furnished for his exclusive use, which account shall be approved by the county commissioners or by the proper city officer at the close of each month. (108 v. Pt. I, 270.)

SECTION 2550. Disposition of balance on death or discharge. Upon the death of such person or when he lawfully ceases to be a county charge or is lawfully discharged from a city infirmary, whose property or effects have been so disposed of, and the avails thereof so applied, any balance due and in favor of such person on the books of the institution shall be paid by the superintendent of the infirmary to him, or in case of his death to his legal representative. When any such fund has become exhausted or any balance paid in manner described above, the superintendent shall file with the proper probate court a complete statement showing receipts, itemized expenditures and balance, if any, and such court shall file such report with the records relating to the original order of sale of such person. (108 v. Pt. I, 270.)

SECTION 2553. Effect of bond for support by relatives. County commissioners or officers of a city infirmary shall not seek to take charge

of property in manner described in section 2548 if the guardian, husband, wife, heirs, or persons entitled to the residuary interest in property give bond to such county commissioners or officers to their satisfaction and, at such times as they require, pay into the hands of the superintendent of the county or city infirmary, an amount sufficient to support the person while he remains a county charge or an inmate of the city infirmary. The probate court at time of hearing a petition for sale may, in lieu of an order for sale, order the guardian, husband, wife, heirs or persons entitled to a residuary interest in the property of such person, to make payments to the superintendent of the infirmary for the maintenance of such person and failure so to do shall make any person so ordered punishable by the court as for contempt. (108 v. Pt. I, 271.)

SECTION 2554. Commissioner may not sell or supply. No county commissioners shall directly or indirectly sell or supply an article, to a superintendent or other person, for the relief of the poor, and no order shall be made by a county commissoiner for the payment of supplies so sold or furnished nor shall an order for the payment of money for supplies sold or furnished be paid to any commissioner or assignee or holder thereof. No county commissioner or employ shall be sold or given any article belonging to, grown or produced at a county infirmary or other public institution. A superintendent, commissioner, trustee or other officer, who certifies to, allows or draws an order for the payment of an account or bill, knowing it to be false or fraudulent, in whole or in part, shall forfeit and pay not less than five hundred dollars nor more than three thousand dollars for each offense, and shall be liable to criminal prosecution, as provided by law. (108 v. Pt. I, 271.)

SECTION 2555. Penalty for bringing pauper into city, township or county. If a person transports, removes, or brings, or causes to be transported, removed or brought a poor or indigent person into a city, township, or county in this state, without lawful authority, and there leaves such poor or indigent person, knowing that such city, township or county will probably become chargeable with his support, the person so offending shall forfeit and pay the sum of fifty dollars for each such offense, for the use of the poor of the city, township or county in which the indigent person is left, to be recovered by civil action, in the name of the state, before any court of competent jurisdiction. When a public official furnishes transportation to an indigent person, it shall be done only after investigation and satisfaction that such transportation will make it possible for such person to be cared for by responsible persons; and the transportation furnished shall be to final destination in this state or elsewhere. (108 v. Pt. I, 271.)

SECTION 2556. Religious services. The board of county commissioners shall provide for holding religious services on Sunday in the infirmary at least once a month, and upon request, shall provide for the conduct of funeral services over deceased inmates. Such services shall be conducted by clergymen employed by the board for that purpose, but the total compensation paid to such clergymen in any one year shall not exceed the sum of \$300.00. (108 v. Pt. I, 271.)

SECTION 2572. Certain bills and vouchers shall be filed and docketed. A bill or voucher for payment of money from any fund controlled by the commissioners must be filed with the county auditor and entered in a book for that purpose at least five days before its approval for payment by the commissioners. When approved, the date thereof shall be entered on such book opposite the claim, and payment thereof shall not be made until after the expiration of five days after the approval has been so entered. (108 v. Pt. I, 272.)

SECTION 2606. Report of deaf, dumb, blind, insane and idiotic persons. In each year when an enumeration in that behalf is required, as soon as possible after the third Monday of May, the county auditor shall make and forward to the auditor of state a list of all the deaf, dumb, blind, insane, and idiotic persons in the county, with the names and post office addresses of their parents or guardians, as returned to him by the assessors. If he fails to make and forward such report within a reasonable time, he shall forfeit and pay to the state any sum not exceeding one hundred dollars, to be recovered and paid as provided in the preceding section. (58 v. 40.)

SECTION 2850. Allowance for prisoners; additional for lunatics. The sheriff shall be allowed by the county commissioners not less than forty-five nor more than seventy-five cents per day for keeping and feeding prisoners in jail, but in any county in which there is no infirmary, the county commissioners, if they think it just and necessary, may allow any sum not to exceed seventy-five cents each day for keeping and feeding any idiot or lunatic. The sheriff shall furnish at the expense of the county, to all prisoners confined in jail, except those confined for debt only, fuel, soap, disinfectants, bed, clothing, washing and nursing when required, and other necessities as the court in its rules shall designate. (98 v. 255.)

SOLDIERS' RELIEF COMMISSION

SECTION 2930. Soldiers' relief commission; appointment and term. There shall be a commission known and designated as "the soldiers' relief commission," in each county, composed of three persons, residents of the county, each of whom shall serve for three years, and wherever possible one member of said commission shall be a wife or widow of an honorably discharged soldier, sailor or marine of the civil war or of the Spanish-American war. Two of the persons so appointed shall be honorably discharged soldiers, sailors or marines of the United States. On or before the first Monday in April of each year, a judge of the court of common pleas in such county shall appoint one commissioner for such term. (107 v. 26.)

SECTION 2931. Organization; vacancy. Such commissioners shall select one of their number president and one as secretary. In counties containing a national soldiers' home they may employ an assistant secretary and prescribe his duties and compensation. A judge of the court of common pleas may remove any member of the commission for cause, and shall fill vacancies occurring therein for the unexpired term. (94 v. 159.)

SECTION 2932. Payment of commissioners' expenses. On the presentation of an itemized statement thereof, the county commissioners shall allow the persons composing the soldiers' relief commission, their actual expenses incurred in the performance of their duties, and a fair compensation for their services. The county auditor shall issue his warrant upon the county treasurer for the amount so allowed. (85 v. 158.)

SECTION 2933. Soldiers' relief committee; how appointed. On the first Monday of January in each year, the soldiers' relief commission shall appoint for each township, except for any part thereof within the limits of a city, and for each ward in any city in the county, a soldiers' relief committee, consisting of three persons, residents of such township or ward, who shall be honorably discharged soldiers, sailors or marines of the United States, except one of whom may be the wife or widow of an honorably discharged soldier, sailor or marine of the United States, and if there are no soldiers, sailors or marines resident of such township or ward, there shall be appointed three reputable citizens, one of whom shall be designated as chairman of such township or ward soldiers' relief committee. The commission shall fill all vacancies that occur in any such committee, and may remove any member thereof for cause. In any township or ward where there is located a post of the grand army of the republic, the committee shall be appointed on the recommendation of such post. (107 v. 27.)

SECTION 2934. Lists of persons entitled to relief to be made. Each township and ward soldiers' relief committee, shall receive all applications for relief under these provisions, from applicants residing in such township or ward, examine carefully into the case of each applicant and on the first Monday in May in each year make a list of the names of all indigent soldiers, sailors and marines, and of their indigent parents, wives, widows and minor children, including widows of soldiers, sailors and marines who have remarried, but again have become indigent widows, who reside in such township or ward, and including the soldiers, sailors and marines of the Spanish-American war, and the war with Germany, and their wives, widows, indigent parents, minor children and wards, who have been bona fide residents of the state one year, and of the county six months, next prior to such first Monday in May, and who, in the opinion of such relief committee, require aid, and are entitled to relief under these provisions. (108 v. Pt. I, 633.)

SECTION 2935. Application for relief; penalty for false statement. On or before last Monday in such month of May, the chairman of each township or ward soldiers' relief committee, or the other member thereof authorized by such committee, shall deliver such list to the soldiers' relief commission, or its secretary, with a statement of each applicant for relief, of the income, if any, of the applicant, the amount of taxable property, real and personal, stocks, bond, moneys on hand, loaned or deposited in any bank or elsewhere, shares in building associations, mortgages, notes or other articles of value from which an income or revenue is derived by such applicant. Such statement shall be made upon blanks which shall be furnished by the soldiers' relief commission, and shall be subscribed by the applicant. In case any false statement is made

therein by an applicant for relief, or guardian for such applicant, such applicant or guardian shall be fined not less than twenty dollars, nor more than fifty dollars, and be imprisoned in the county jail not less than thirty days, nor more than sixty days. (94 v. 158.)

SECTION 2936. Determination of amount and tax for such relief. On such last Monday in May the commission shall meet and determine from such lists the probable amount necessary for the aid and relief of such indigent persons for the ensuing year, together with the amount sufficient in the judgment of the commission, to furnish relief to any such indigent persons not named on such lists, whose rights to relief shall be established to the satisfaction of the commission. After determining the probable amount necessary for such purpose, the commission shall certify it to the county commissioners, who, at their June session shall make the levy necessary to raise the required relief, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county hereinafter authorized. (94 v. 158.)

SECTION 2937. Annual meeting of commission. On the fourth Monday of November of each year and at such other times as may be necessary, the soldiers' relief commission shall meet at the office of the county commissioners, or in a suitable room furnished by the county for that purpose, and examine carefully the lists and statements of those reported by the township and ward soldiers' relief committees, and also all cases not included in such lists, who, before and during their session, have been recommended to the commission for aid under these provisions. If satisfied that those so recommended, or any of them are in need of assistance and are entitled thereto under these provisions, the commission shall fix the amount to be paid each month in each case to such person or family. (87 v. 354.)

SECTION 2938. List furnished to township clerks. Upon the conclusion of such examination and the determination of the monthly allowance, the relief commission shall make a complete list of those to whom relief has been awarded, showing the monthly amount awarded to each person, and, so far as practicable, the place of residence of each, and certify it to the auditor of the county. Within ten days thereafter the county auditor shall transmit to the township clerk, in his county, a list of the names of the persons in the respective townships, and the amount payable monthly to each, and on the first day of each month after the fund is ready for distribution, the auditor shall issue to the trustees of each township his warrant upon the treasurer of the county for the amount awarded to the persons in such township, and the township trustees shall disburse such moneys in the amounts and to the persons named in the list furnished to the township clerk, taking receipts therefor. But in townships embracing a county seat, in which the office of county treasurer is kept, the county treasurer shall disburse such fund to the persons entitled to same, upon the voucher of the soldiers relief commission, properly authorized by the county auditor. (110 v. 30.)

SECTION 2939. Disbursement to those not on list. To each person certified by the relief commission to the auditor, not included in any list

furnished township clerks, the auditor shall issue his warrant upon the county treasurer for the monthly allowance awarded such person. Upon proper cause shown, such commission may appoint a suitable person to draw, receipt for and properly expend the allowance made to any person under these provisions, after such voucher or certificate is endorsed by the person for whom such allowance is intended, for the benefit of such person, and the indigent members of his family and no part of such allowance shall be paid to any person without such endorsement. On the recommendation of a township or ward committee, the commission at any meeting, may increase, or decrease or discontinue any allowance theretofore awarded which action shall be certified to the county auditor, who shall amend his list in accordance therewith. (103 v. 68.)

SECTION 2940. Increase or decrease of allowance. In case such change relates to the allowance to a person resident in any township it shall be certified to the township clerk, who shall amend his list accordingly, and certify it to the township treasurer. If the amount due the township after such change, increases the amount theretofore allowed such township, the auditor shall issue to the township treasurer his warrant upon the county treasurer for such additional amount. (87 v. 354.)

SECTION 2941. Emergency relief. In case of sickness, accident or great destitution upon the recommendation of a township or ward committee, the relief commission may, at any time, grant immediate relief to any person entitled thereto under these provisions, under such rules as it may designate. If any money so awarded as relief shall not be called for by the applicant before the first Monday in December, each year, such amounts shall be paid into the county treasury to the credit of the relief fund. (87 v. 354.)

SECTION 2942. Tax for relief of soldiers and sailors. The board of county commissioners of each county shall levy, in addition to the taxes now levied by law for other purposes than those herein provided, a tax not exceeding five-tenths of one mill per dollar on the assessed value of the property of the county, to be levied and collected as provided by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of the honorably discharged soldiers, indigent soldiers, sailors and marines of the United States, and the indigent wives, parents, widows and minor children under fifteen years of age, of such indigent or deceased soldiers, sailors or marines, to be disbursed as hereinbefore provided. (99 v. 526.)

SOLDIERS' BURIAL PLOT

SECTION 2943. Application or petition for soldiers' plot in cemetery. Upon application in writing made by a veteran soldiers' association in any city, township, or village or upon a petition in writing of five or more veteran soldiers in any city, township or village where no veteran soldiers' organization exists, the soldiers' relief commission of any county shall purchase or provide a soldiers' plot in any cemetery where no burial plot is provided in such county, city or village for the burial, removal and re-interment of the bodies of neglected and indigent soldiers. (102 v. 75.)

SECTION 2944. Expense, how paid. The expense of such purchase shall be filed with and be audited by the auditor of the county, who shall issue a warrant therefor upon the county treasurer, who shall pay it from the general fund of the county. (99 v. 443.)

SECTION 2945. Expense for care of graves. On and after the interment of the remains of the deceased soldier or soldiers in such soldiers' plot, the expenses of the care of the grave or graves shall be annually provided for by the village, city or township, in which the remains are buried, at not to exceed fifty cents per grave each year, and shall be paid annually to the cemetery association in which the remains may be interred, removed or reinterred. (102 v. 75.)

SECTION 2946. Petition; what to contain. A petition may be presented to the county soldiers' relief association of any county signed by the officers of the veteran soldiers' organization, or a majority of a memorial committee of any incorporated village or city, wherein one or more veteran soldier organizations exist, or the petitioners may be honorably discharged veteran soldiers, in townships or villages where no veteran soldiers' organization exists, containing: First: The name of the deceased soldier, or soldiers, whose remains are sought to be buried or removed, and, if known, the company and regiment in which he or they served. Second: The name and location of the cemetery in which he, or they are interred, and from which removal is asked to be made. Third: The name and location of the cemetery to which the remains are desired to be removed and reinterred. Fourth: The facts showing the reason for such removal. (102 v. 75.)

SECTION 2947. Order of removal. Within thirty days after the next succeeding regular meeting, the soldiers' relief commission shall act upon such petition, and, if true, issue an order directing the removal of the remains of said deceased soldier, or soldiers, to the cemetery designated in the petition, within the village, city, or township, in which the remains are then to be buried, and shall specify in the order the maximum expenses of the proposed removal and reinterment, including the expense of the proposed removal and reinterment, including the expense incurred by the commission. The said order shall designate the person or persons who shall have charge of the burial or removal and reinterment. (102 v. 75.)

SECTION 2948. Verified statement of burial or removal. Upon the completion of the burial or removal and reinterment, the person or persons having charge thereof shall make an itemized statement, verify and file it with the soldiers' relief commission, which shall, at the next regular meeting, act upon such expense account, and file it with the auditor of the county forthwith, when it shall become a charge upon the county in which said interment or reinterment is made. Such expense shall be audited and the auditor shall issue a warrant therefor on the county treasurer, who shall pay the same out of the general fund of said county (102 v. 75.)

SECTION 2949. Definition of "Soldiers." The word "soldiers" shall mean: An honorably discharged soldier, sailor or marine, who served

in the army or navy of the United States of America. The words, "soldiers' plot" shall mean: A plot of land in any cemetery, set apart to be exclusively used for interring the remains of deceased veteran soldiers of the United States. (102 v. 75.)

SECTION 2949-1. Purchase of additional plots. In the event that it may become necessary to purchase additional plots of ground in any cemetery wherein a "soldiers' plot" has heretofore existed, where said "soldiers' plot" has been filled with graves to its capacity, this act shall not be construed to prevent the purchase of the same under the terms of this act. (102 v. 75.)

SECTION 2949-2 Furnishing and maintaining graves for soldiers, sailors, etc. That the board of county commissioners of any county and township trustees and councils of cities and villages, located in any county, are hereby empowered and authorized to enter into contracts with cemetery associations providing for the purchasing and maintaining in cemeteries within any such county, of plots of ground for the burial of honorably discharged soldiers, sailors, marines and nurses who have been in the service of the United States in time of war. The purchase price and maintainance cost of all such burial plots shall be paid from the treasury of the county, township or municipality contracting for same. (109 v 145.)

SECTION 2949-3. Plots open for burial on application. Any such plots owned or maintained by any county, township or municipality shall be open for the burial of the body of any such deceased soldier, sailor, marine or nurse on application to the county, township or municipality owning or maintaining the same, by a relative of such decedent, or other proper person. (109 v. 146.)

SECTION 2949-4. Burial in cemetery not provided with plot. In case it is desired to bury the body of any such deceased soldier, sailor, marine or nurse in any cemetery not provided with a plot as aforesaid, the board of county commissioners, any board of township trustees or the council of any municipality in the county in which such cemetery is situated are hereby authorized and empowered to purchase a space for the grave of such soldier, sailor, marine or nurse and to provide for caring for same, paying the amount of such purchase price and maintenance cost from the funds in the treasury of such county, township or municipality. (109 v. 146.)

SECTION 2950. Burial of soldier, mother, wife or widow; selection of undertaker. The county commissioners of each county shall appoint two suitable persons in each township and ward in the county, other than those prescribed by law for the care of paupers and the custody of criminals, who shall, with the approval of the family or friends of the deceased, contract at a fair and reasonable price, with the undertaker selected by said family or friends, and cause to be interred in a decent and respectable manner, the body of any honorably discharged soldier, sailor or marine having at any time served in the army or navy of the United States, or the mother, wife or widow of any such soldier, sailor or marine, or any army nurse who did service at any time in the army

of the United States, who dies, not having the means to defray the necessary funeral expenses. Such burial may be made in any cemetery or burial ground within the state, other than those used exclusively for the burial of paupers and criminals. (109 v. 211.)

SECTION 2951. Duties of committee; compensation; vacancy. The committees so appointed shall use the forms of contracts herein prescribed, and abide by the regulations herein provided. Such committee shall hold their appointment so long as they serve to the satisfaction of the county commissioners, and when a vacancy occurs therein the commissioners shall appoint a suitable person to fill such vacancy. Such committee shall see that undertakers furnish all items specified in the contract, and that when the benefits of this provision are claimed the entire amount to be contributed by the county toward the cost of such funeral shall not exceed the sum of one hundred dollars, and that any remaining cost, if any, shall be paid by the family or friends of the deceased. The members of such committee shall receive one dollar each from the general fund of the county for each service so performed. (109 v. 211.)

SECTION 2952. Burial and report thereof. Before they assume the charge and expense of any such burial, the persons so appointed shall satisfy themselves beyond a reasonable doubt, by careful inquiry, that the family of the deceased is unable, for want of means, to defray the expense, or that the family may be deprived of means actually necessary for their immediate support. Thereupon they shall cause to be buried such person, and make a report thereof to the county commissioners of the county, setting forth the fact that they found the family of such deceased person in indigent circumstances, and unable to pay the expenses of burial, and the name, rank and command to which he belonged if a soldier or sailor, the date of death, place where buried, occupation while living, also an accurate itemized statement of the expenses incurred by reason of such burial. (99 v. 100.)

SECTION 2953. Death of inmate of home. Upon the death of an inmate of any home for indigent mothers, wives or widows of soldiers, or for army nurses, the matron thereof may upon certificate signed by the attending physician of such home, certify to the death of such inmate to the commissioners of the county from which such mother, wife, widow or army nurse was admitted to the home, and such commissioners shall proceed as hereinafter provided in other cases. (99 v. 100.)

SECTION 2954. Undertaker's blank. The undertaker employed to perform the service hereinbefore described shall use blanks herein provided, specifying what he is to furnish for such service, sign the contract and leave a copy thereof with the committee with whom he makes his contract, to read as follows:

I.....undertaker, residing at
.....hereby agree to furnish the
following items for the burial of.....who
resided at....., and died.....
..... 19.....namely: One
casket nicely covered with a good quality of black cloth, lined with a

good quality of white satin, or other material of good quality and trimmed outside with six handles of a fair quality in keeping with the casket; one burial robe of good quality of material; one plain box for receiving the coffin inside the grave; to pay for digging the grave, in the place designated by the friends of the deceased, or otherwise provided, and fill up the grave in a proper manner, to furnish a respectable hearse for conveying the remains to the place of burial; to prepare the body for burial when so requested, to furnish two carriages of four passenger capacity each for use of the friends, and one carriage of six passenger capacity for the pall bearers, returning the same people to their respective homes or to the place where the funeral services were held. In fact to furnish a decent, respectable funeral, for the sum of..... dollars. (99 v. 100.)

SECTION 2955. Presentation of bill to auditor. The undertaker shall present his itemized bill and contract to the county auditor, upon printed blanks furnished by the auditor, and make oath that he has honestly and faithfully performed his contract and that the bill and contract attached is a true copy of the one left with the parties who engaged his services, and covers the entire expense of such funeral, in order to obtain his warrant. County auditors shall have printed such necessary blanks, and distribute them to clerks of townships of the county from whom undertakers can procure them. (99 v. 100.)

SECTION 2956. Unexpended balance. If a saving of money is effected, by reason of donations of carriages, owning of cemetery lot, or other items mentioned in the bill of expenses, the amount of such saving shall go to the family of the deceased, or to those who may have cared for the deceased in life, or remain in the general fund of the county, at the discretion of the committee. If it appears that life insurance, or any fraternity funds are coming to the family of the deceased, the committee shall withhold their signatures to the contract until such matters are definitely settled. (99 v. 100.)

SECTION 2957. Record; expenses; headstone. Upon securing such report and statement of expenses, the county commissioners shall transcribe in a book to be kept for that purpose, all the facts contained in such report, concerning such deceased soldier, and certify the expenses thus incurred, to the county auditor, who shall draw his warrant therefor, payable to the person or persons designated by the county commissioners, upon the county treasurer, to be paid from the county fund. Upon the death and burial of any such person, residing in their county at the time of death, the county commissioners shall make application to the proper authorities, under the United States government, for a suitable headstone as provided by act of congress, and cause it to be placed at the grave of such deceased soldier, sailor, or marine. (99 v. 101.)

COUNTY BLIND RELIEF COMMISSION

SECTION 2965. Needy blind defined. Any person of either sex who, by reason of loss of eyesight, is unable to provide himself with the

necessities of life, who has not sufficient means of his own to maintain himself, and who unless relieved as authorized by these provisions would become a charge upon the public or upon those not required by law to support him, shall be deemed a needy blind person. 99 v. 256.)

SECTION 2966. Qualifications. In order to receive relief under these provisions a needy blind person must become blind while a resident of this state, and shall be a resident of the county for one year. (99 v. 57.)

SECTION 2967. Application and relief. At least ten days prior to action on any claim for relief hereunder, the person claiming shall file with the board of county commissioners a duly verified statement of the facts bringing him within these provisions. The list of claims shall be filed in a book kept for that purpose in the order of filing, which record shall be open to the public. No certificate for qualification of drawing money hereunder shall be granted until the board of county commissioners shall be satisfied from the evidence of at least two reputable residents of the county, one of whom shall be a registered physician, that they know the applicant to be blind and that he has the residential qualifications to entitle him to the relief asked. Such evidence shall be in writing, subscribed to by such witnesses, and be subject to the right of cross-examination by the board of county commissioners or other person. If the board of county commissioners be satisfied that the applicant is entitled to relief hereunder, said board shall issue an order therefor in such sum as said board finds needed, not to exceed two hundred dollars per annum, to be paid quarterly from the funds herein provided on the warrant of the county auditor, and such relief shall be in place of all other relief of a public nature; provided, however, that where a husband and wife are both blind, and both have made application for blind relief as herein provided, the total relief given by said county commissioners to such husband and wife shall not exceed three hundred dollars per annum, and such relief shall be in place of all other relief of a public nature, to which such husband and wife, or either of them, might be entitled as a blind person. (108 Pt. I, 421.)

SECTION 2967-1. Surgical operation on evidence of physician. If the board of county commissioners, in the examination of the qualifications of any person filing a claim for relief hereunder, or who may have been allowed relief by such board, shall determine upon the evidence of a registered physician and surgeon, that any person or persons making such claims or then on such list might have such disability benefited or removed by proper surgical operation or medical treatment, such person entitled to such relief files his consent in writing thereto, then the board of county commissioners may expend for the purpose of such surgical operation or medical treatment, all or any portion of the relief which the board of county commissioners may award to such person for one year under the provisions of this act; and in such case the warrant of the county auditor shall be issued direct to the persons entitled to pay for such surgical operation or medical treatment upon the certificate of the board of county commissioners, instead of being payable quarterly to the person entitled to such relief. (103 v. 60.)

SECTION 2968. Increase or decrease allowance. At least once a year, and oftener if it deems necessary, the board of county commissioners shall make examination as to the qualifications, disability and needs of any or all persons on the blind list, and said board may at any time increase or decrease the amount of such relief, within the limits fixed by law. If not satisfied that any person on the blind list is qualified to draw his money, said board shall remove such person from the list, and shall forthwith notify the county auditor of such action. The board of county commissioners may in their discretion appoint such clerks as they deem necessary for the purpose of investigating the qualifications, disability and needs of any person who has theretofore been placed on the blind list, or who has made an application to be placed on such list. Said clerks shall be known as "blind relief clerks" and shall serve for such length of time only as said county commissioners prescribe and may be discharged by said commissioners at any time. The county commissioners shall fix the compensation of such clerks, which compensation, after being fixed, shall be paid monthly from the general fund of the county upon the warrant of the county auditor.

In addition to their compensation, said clerks shall be allowed monthly, their actual and necessary expenses incurred in the discharge of their official duties; but no such expenses shall be allowed or paid until an itemized statement of the same, duly verified, shall first have been filed by said clerks with said county commissioners. When so allowed, said expenses shall also be paid from the general fund of the county, upon the warrant of the county auditor.

If, upon the examination of the application of a person for blind relief, said county commissioners desire medical evidence of the blindness of said applicant, additional to that furnished by the evidence of the physician subscribing to said application, said commissioners shall have the right to employ another registered physician who, if said applicant is willing, shall examine the eye condition of said applicant and make written report to said commissioners concerning the same. Said county commissioners shall have the right to pay said physician making such examination and furnishing such additional evidence as aforesaid, a fee not to exceed the sum of ten dollars, which, when allowed by said county commissioners, shall be paid out of the general county fund upon the warrant of the county auditor. (108 Pt. I, v. 421.)

SECTION 2969. Relief fund. In addition to the taxes levied by law for other purposes, the county commissioners of each county shall levy a tax not to exceed three-tenths of one mill per dollar on the assessed value of the property of the county, to be levied and collected as provided by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of the needy blind of their respective counties. (101 v. 50.)

SECTION 2970. Penalty for false statement. Whoever to procure for himself or another, the benefit provided in this chapter for needy blind persons, makes a false statement, shall, upon conviction, be deemed guilty of perjury. (99 v. 58.)

COUNTY VISITORS

SECTION 2971. Board of county visitors; vacancies. In each county there shall be a board of visitors consisting of six persons, not more than three of whom shall have the same political affiliations, for the inspection of all charitable and correctional institutions supported in whole or in part from county or municipal funds. Three of such appointees shall be women. Within thirty days prior to the first day of May of each year the judge of the probate court shall appoint two persons for a term of three years beginning on the first day of May. All vacancies in the board shall be filled in the manner provided by the original appointment for the unexpired term only. (103 v. 174.)

SECTION 2972. Appointment; qualifications. A certificate of appointment shall be issued to such persons appointed and a copy, giving full names and addresses, shall be sent to the board of state charities at Columbus. No person shall be qualified to serve on the board who is in any manner officially connected with any charitable or correctional institution within the county supported wholly or partly at public expense. (98 v. 28.)

SECTION 2973. Expenses of board; how paid. The board of county visitors shall serve without compensation, but actual expenses incurred in the discharge of its duties and actual necessary expenses incurred by any members to be selected by such board in visiting any other charitable or correctional institution for the purpose of information, and in attendance upon any convention or meeting held within this state in the interest of and to deliberate upon charitable or correctional methods and work to an amount not to exceed one hundred dollars in any year, shall be allowed by the county commissioners. The county auditor shall issue a warrant therefore which shall be paid by the county treasurer, provided that the judge of the probate court has issued a certificate that the members of the board have satisfactorily performed their duties as provided in subsequent sections. (98 v. 28.)

SECTION 2974. Duties of board of visitors. The board of visitors, by personal visitation or otherwise, shall keep themselves fully advised of the condition and management of all charitable or corrective institutions supported in whole or in part by county or municipal taxation, or which are under county or municipal control and especially the infirmary, county jail, municipal prisons, and children's home. From time to time they shall recommend to the county commissioners and to other officials responsible therefor, such changes and additional provisions as they deem essential for their economical and efficient administration. At least once in every three months each of such institutions shall be visited by such board, or a committee of its members. Failure in the performance of these duties on the part of any member of the board for one year shall be sufficient cause for his or her removal by the judge of the probate court. (98 v. 28.)

SECTION 2975. Judge may notify board before sending child to reformatory. The juvenile judge in each county whenever proceedings are instituted before him to commit a child to a boys' industrial school

or girls' industrial school, may notify the board of county visitors of the county, of the pendency of such proceedings and thereupon it shall be the duty of such board to attend and protect the interests of such child. (103 v. 888.)

SECTION 2976. Annual report. Each year, the board of county visitors shall prepare a full report of its proceedings during the year, with such recommendations as it deems advisable, and shall file it with the judge of the probate court and the prosecuting attorney of the county between the fifteenth day of November and the fifteenth day of December, and forward a copy thereof to the board of state charities at Columbus. (98 v. 20.)

CHILDREN'S HOMES

SECTION 3070. Bequests for orphans' asylum. The county commissioners may receive bequests, donations, and gifts, real and personal, for the purchase of a site to erect thereon and maintain an orphans' asylum, provided, however, that the board of state charities must first approve of the establishment of such asylum. (103 v. 888.)

SECTION 3071. When may erect asylums. When in the opinion of the commissioners, the bequests, donations, or gifts received by them, are sufficient therefor, they may proceed to the purchase of a site, and the erection thereon of an orphan asylum. (62 v. 97.)

SECTION 3072. Board of directors. When the asylum is completed, the county commissioners shall appoint six judicious persons, residents of the county, who shall form a board of directors to take charge of such asylum and manage its affairs under such rules and regulations as they establish, or are prescribed by law. The two first named directors shall serve for two years, the second two for four years, and the third two for six years, and as their terms of office expire, their successors shall be appointed for the term of six years. (62 v. 97.)

SECTION 3073. Duties of directors; treasurer; bonds. The directors of such asylum shall discharge gratuitously the duties required of them by law. They shall elect from their number a president, treasurer, and secretary. The treasurer shall give bond to the state, in such sum as the county commissioners require, for the safe keeping and disbursement of moneys that come into his hands as such treasurer. (62 v. 97.)

SECTION 3074. Annual report. Each year, the directors of such asylum shall make to the county commissioners, a full report of the receipts and disbursements of the asylum, the number of orphans received into and discharged therefrom, and any other matters they deem of interest to the institution, or the public. Each report shall be published by the county commissioners in a newspaper, having general circulation in the county. (62 v. 97.)

SECTION 3075. Investments. Funds coming into the hands of the county commissioners for such purposes, not immediately needed therefor, may be invested by them in unincumbered real estate mortgages or bonds of the state or United States, the proceeds to be credited to the asylum fund. (62 v. 97.)

SECTION 3076. When it may be changed into children's home. If not inconsistent with the terms of any devise, bequest, or donation for the establishment of such asylum, it may be changed into or connected with a children's home belonging to such county. (R. S. 1880.)

SECTION 3077. Establishment of children's home submitted to vote. When, in their opinion, the interest of the public so demanded, the commissioners of a county may, or upon written petition of two hundred or more tax payers, shall, provided the approval of the board of state charities has been first obtained, at the next regular election submit to the qualified electors of such county, or the counties forming a district, the question of establishing a children's home for such county or district, and the issue of county bonds or notes to provide funds therefor. Notice of such election shall be published for at least two weeks prior to taking such vote, in two or more newspapers printed and of general circulation in such county or in the counties of the district, and shall state the maximum amount of money to be expended in establishing such home. (103 v. 889.)

SECTION 3078. Duty of commissioners if vote is favorable. If at such election a majority of electors voting on the proposition are in favor of establishing such home, the commissioners of the county, or of any adjoining counties in such district, having so voted in favor thereof, shall provide for the purchase of a suitable site and the erection of the necessary buildings and provide means by taxation for such purchase and the support thereof. Such institution shall be styled the children's home for such county or district. (99 v. 184.)

SECTION 3079. May issue bonds in anticipation of tax. In anticipation of the collection of taxes levied, or to be levied, for the purchase of such site and erection of such buildings, or for the purchase of a suitable site and buildings already erected thereon, the commissioners of any county may issue the notes or bonds of the county, to bear interest not to exceed six percent. per annum, payable semi-annually, which shall not be sold for less than their par value. (99 v. 184.)

SECTION 3080. May receive and hold property in trust. Such commissioners may receive and hold in trust for the use and benefit of the home, any grant or devise of land and any donation, bequest, money or other personal property that may be made for the establishment and support of such home. (99 v. 184.)

SECTION 3080-1. Corporation conducting orphans' home authorized to transfer funds to county commissioners, when. That any corporation organized under the laws of this state for the purpose of establishing, conducting and maintaining an orphans' home, or home for friendless children, that is unable from any cause to conduct and maintain such orphans' home or home for friendless children, and has not for a period of three successive years conducted and maintained a place or establishment for the care of orphans, or friendless children, and said corporation has in its hands funds or property acquired by it for the purpose of establishing, conducting and maintaining such home be, and it is hereby authorized to transfer such funds or property in its posses-

sion to the commissioners of the county in which such corporation had its principal place of business, to be used by said commissioners under the laws of Ohio for the purpose of establishing, conducting and maintaining such an orphans' home, or home for friendless children, and the transfer by the trustees of such corporation to said commissioners of said funds and property, shall be a full discharge of the liability of said trustees therefor. (103 v. 343.)

SECTION 3081. Trustees, terms of. When the necessary site and buildings are provided by the county, the commissioners shall appoint a board of four trustees, as follows: One for one year, one for two years, one for three years, and one for four years, from the first Monday of March thereafter. Not more than two of such trustees shall be of the same political party. Annually thereafter on the first Monday of March, the county commissioners shall appoint one such trustee, who shall hold his office for the term of four years and until his successor is appointed and qualified. (99 v. 185.)

SECTION 3082. Vacancy, how filled; removals. The commissioners shall immediately fill a vacancy caused by death, resignation or removal, by appointment for the unexpired term. They may remove any trustees appointed by such board of commissioners for cause impairing faithful, efficient and intelligent administration or for conduct unbecoming to such office, after an opportunity is given to be heard upon written charges, but no removal shall be made for political reasons. (99 v. 185.)

SECTION 3082-1. Meeting each month to examine accounts, condition of property and care of wards or inmates. Such board of trustees shall hold a meeting once each month at which time they shall examine all accounts presented for payment and order the payment of such accounts as a majority of the members may approve. Such board shall also examine into the conditions of the property, carefully observe the manner of care afforded the wards of such boards whether inmates of the home or residing in foster families, and shall file with the state board of charities annually, or oftener if required, a detailed account, giving the whereabouts of each child and the moral and physical condition of each child. Called or adjourned meetings of the board may be held at any time as the members may provide. Failure of a trustee to attend three consecutive regular meetings of the board, unless for reasons beyond his control, shall be sufficient cause for removal. (108 v. Pt. I, 79.)

SECTION 3083. Trustees may accept bequest to county children's home. When a person has bequeathed, or hereafter bequeaths any property to the use and benefit of a county children's home, the trustees thereof may accept and use such bequest as they deem for the best interests of the institution consistent with the provisions and conditions of such bequest. (94 v. 26.)

SECTION 3084. Superintendent; how appointed. The board of trustees shall designate a suitable person to act as superintendent of the home, who shall also be clerk of such board, and who shall receive for his services such compensation as the board of trustees designates at the time of his appointment. He shall perform such duties, and give security for their faithful performance, as the trustees require. (99 v. 185.)

SECTION 3085. Duties of superintendent, matron, teacher and physician. Subject to such rules and regulations as the trustees prescribe, the superintendent shall have entire charge and control of such home and the inmates therein. Upon the approval of the trustees the superintendent may appoint a matron, assistant matrons, and other necessary employes whose duties shall be the care of the inmates of the home, and to direct their employment, giving suitable physical, mental and moral training to them. Under the direction of the superintendent, the matron shall have the control, general management and supervision of the household duties of the home, and the matron, assistant matrons, and other employes shall perform such other duties and receive for their services such compensation as the trustees may by by-laws from time to time direct. They may be removed by the superintendent or at the pleasure of a majority of the trustees. (107 v. 60.)

SECTION 3086. Superintendent may suspend employe. The superintendent may suspend temporarily a matron, assistant matron, or teacher, notice of which must be immediately given to the board of trustees for their approval, or disapproval, but, if in their judgment it is for the best interest of the home and of the county, the trustees may dispense with a superintendent and authorize the matron to assume entire charge of the home and its management. (99 v. 185.)

SECTION 3087. Trustees shall receive no compensation. The trustees shall not receive any compensation for their services, but they and the superintendent shall be allowed their necessary expenses while on duty, including expenses as duly accredited delegates to the state and national conferences devoted to child saving, and other charitable and correctional work, and such expenses shall be paid in the same manner as other current expenses of children's homes, and shall not exceed four hundred dollars in any year for any county. (99 v. 185.)

SECTION 3088. Children shall be given elementary education. Children of school age who are inmates of a county, semi-public or district children's home shall be given an elementary education after the manner described in section 7676. (107 v. 61.)

SECTION 3089. What children may be admitted; incorrigibles. The home shall be an asylum for children under the age of eighteen years, of sound mind and not morally vicious and free from infectious or contagious diseases, who have resided in the county not less than one year, and for such other children under such age from other counties in the state where there is no home, as the trustees of such home and the persons or authority having the custody and control of such children, by contract agree upon, who are, in the opinion of the trustees, suitable children for admission by reason of orphanage, abandonment or neglect by parents, or inability of parents to provide for them. In no event shall a delinquent or incorrigible child be committed to or be accepted by such home. If an inmate of such home is found to be incorrigible, he or she shall be brought before the juvenile court for further disposition. Parents or guardian of such children shall in all cases where able to do so, pay reasonable board for their children received in such children's home. (103 v. 890.)

SECTION 3090. How children shall be admitted; record. They shall be admitted by the superintendent on the order of the juvenile court or of a majority of such trustees, accompanied by a statement of facts signed by the court or trustees, setting forth name, age, birthplace, and present conditions of the child named in such order, which statement of facts contained in the order, together with any additional facts connected with the history and condition of such children shall be, by the superintendent, recorded in a record provided for that purpose, which shall be confidential and only open for inspection at the discretion of the trustees. (103 v. 890.)

SECTION 3091. Certificate of superintendent of infirmary and township trustees. When a child maintained in the infirmary of any county becomes eligible to the children's home of such county or district, such fact shall be certified to the trustees thereof by the superintendent of the infirmary. Except such as are imbecile, idiots or insane, no child or children entitled to admission into a children's home shall be kept or maintained by any county infirmary in this state. When children are found by township trustees to be proper subjects for the care of the county, said trustees shall file their complaint with the juvenile court, and if said court orders such children to be committed to a children's home, they shall be conveyed to such home by the township trustees, and the expenses thereof paid from the township poor fund. The superintendent of the home may provide and care for temporarily until the proper officers are notified, any child found abandoned and destitute, and which is eligible to the children's home. (103 v. 890.)

SECTION 3092. Commissioners may contract for care of dependent children in certain institutions, when. In any county where such home has not already been provided, or where such home has been abandoned by the county commissioners as provided by law, the board of county commissioners may enter into a contract for the care of its neglected or dependent children with a county children's home in another county, or with any institution or association in the state which has for one of its objects the care of dependent or neglected children, provided such institution or association has been duly certified by the board of state charities; or the board of county commissioners may pay reasonable board and provide suitable clothing and personal necessities as well as medical, dental and optical examination and treatment of dependent or neglected children who may be placed in the care of private families within the county. Provided that in any such case such dependent or neglected children shall be duly committed to the aforesaid institution or association or placed in the care of a private family by the juvenile court as provided by law. Provided, that with the approval of the board of state charities, when in the judgment of the county commissioners the best interests of the dependent wards of the county will be subserved thereby, they may appoint a county child welfare board of four, two members of which shall be women, to serve without compensation, such appointments to be subject, as far as applicable, to the provisions of sections 3081 and 3082 of the General Code. Such board shall have the same powers and duties relative to dependent children as are now given to trustees of county children's homes, so far as applicable, particularly relating to the ap-

pointment of a visitor for the finding and supervision of family homes for such children. (109 v. 533.)

SECTION 3092.-1. Abandonment of county children's home; procedure. In any county having a county children's home the board of county commissioners, with the approval of the board of state charities, may abandon such home after having published an announcement of proposed abandonment in at least two newspapers of opposite politics, when such exist, and of general circulation within the county. Such publication shall be made at least twenty and not more than thirty days prior to a date specified therein when a public hearing on the proposed abandonment will be had at a place and time stated in such publication. Such publication may, at the discretion of the commissioners, be repeated at weekly intervals prior to the public hearing. If at such hearing a written statement signed by at least fifty voters of the county is presented signifying a desire for a referendum vote on the proposed abandonment, the commissioners shall take no further action for thirty days. If within that time a petition signed by not less than five per cent. of the electors of the county as shown by the last general election is presented, demanding a popular referendum vote, then the commissioners shall certify to the board of state supervisors of elections that the question of abandonment of such county children's home be submitted to the voters at the next regular election held not less than thirty days after the date of such certification. The laws relating to filing referendum petitions on acts of the General Assembly shall be followed as far as applicable. If no such written statement praying for a referendum vote is presented at said public hearing, or if within thirty days after such written statement is presented, the aforesaid provision concerning a petition is not fully complied with, or if a majority of the votes cast upon a referendum vote is in favor of such proposed abandonment, the commissioners may then proceed with the sale of the site and buildings of such children's home in the manner most advantageous to the county, or may proceed to use them for other necessary and proper purposes; provided, that all wards of such county children's homes who are placed in foster homes and who are under the guardianship of the trustees shall first be legally committed or transferred to the guardianship of the board of state charities as provided by law. If all or a part of the site and buildings heretofore used for such county children's home be sold the net proceeds of such sale shall be used to provide and care for neglected and dependent children in other institutions, boarding homes, or foster homes as approved by the board of state charities. (109 v. 533.)

SECTION 3093. Guardianship and control of inmates. All wards of a county or district children's home, or of any other accredited institution or agency caring for dependent children who by reason of abandonment, neglect or dependence have been committed by the juvenile court to the permanent care of such home, or who have been by the parent or guardian voluntarily surrendered to such an institution or agency, shall be under the sole and exclusive guardianship and control of the trustees until they become of lawful age. The board of trustees may by contract or otherwise provide suitable accommodations outside of the home and may provide for the care of any child under its control by payment of a

suitable amount of board, to a competent person, whenever the interests of such child require such an arrangement. Children committed for temporary care or received by arrangement with parent or guardian shall be considered under the custody and control of the trustees only during the period of such temporary care, except as hereinafter provided. Whenever a child has been received upon agreement of parent to pay a stipulated sum for his support and such parent is in arrears for a period of six months or more, the trustees may institute proceedings in the juvenile court to ascertain whether such child has been abandoned. The judge of the juvenile court shall after hearing the case make such order for the future care of the child as in his judgment is just and proper for the best interest of the child. (108 v. Pt. I, 261.)

SECTION 3094. May remove child to county of its residence. The trustees may remove any child, who has become a charge upon the county and who has no legal settlement therein, to the county to which it belongs, and all charges and expenses so incurred shall be paid by the county to which it belongs. The trustees may discharge any inmates of such home and may return them to their parents or guardians when they believe them capable of providing for themselves or their parents or guardians for them. (99 v. 188.)

SECTION 3095. Foster home to be investigated. The trustees shall seek homes in private families for all children eligible to be placed out, but before allowing a child to leave the home they shall cause the proposed foster home to be carefully investigated and satisfy themselves that such persons are suitable to have the care and bringing up of the child. The trustees shall have scrupulous regard to the religious and moral character of the persons with whom the child is placed in order to secure to it the benefit of good example and wholesome instruction and opportunity of becoming an intelligent and useful citizen. (99 v. 188.)

SECTION 3096. Written agreement as to child's care and education. The trustees shall require an agreement in a form to be prescribed by the board of state charities, in writing to be entered into, that such child so placed out shall be furnished with good sufficient food, clothing and a public school education, and if deemed by the trustees to the interest of the child that such provisions be made, that there shall be payment to it of a reasonable amount to be named in the agreement, to be paid in such amounts and times as may be specified. Children may be placed in homes on trial without any written agreement. For the purpose of securing the well-being and progress of such children, and the enforcement of the agreement, the trustees shall have the control and guardianship of such children until they become of age. (103 v. 891.)

SECTION 3097. Uniformity of records. Full and complete records of the inmates shall be kept in the children's home and they shall be uniform throughout the state. It shall be the duty of the board of state charities to secure uniformity by providing a standard form of blanks and records for the guidance of such institutions, wherein shall be recorded the full name, age, place of residence, name of parent or other relatives, so far as obtainable, and other information as the board of state charities requires, which records shall not be open to inspection unless

on special permission of the trustees. The name and place of residence of the person with whom the child is placed or by whom adopted shall be recorded together with the terms of the agreements in a separate record, which shall not be open to inspection except by special permission of the trustees, having regard at all times to the well-being of the child, except that duly authorized representatives of the board of state charities, may see such records at any time. (103 v. 892.)

SECTION 3098. Visitation; duty of trustees. The trustees shall visit, or cause to be visited, each child placed out by them, at least once in each year and as much oftener as the welfare of the child requires. The trustees may at any time vacate any agreement when the welfare of the child may demand it, and replace it in another family home or return it to the institution. (103 v. 892.)

SECTION 3099. Trustees shall appoint visiting agent; duties. Unless the children's home places its wards through the agency of the board of state charities, the trustees shall appoint a competent person as visiting agent, who shall seek homes for the children in private families, where they will be properly cared for, trained and educated. When practicable, the agent shall visit the child so placed not less than once in each year, and report from time to time to the trustees its condition, any brutal or ill treatment of it, or failure to provide suitable food, clothing or school facilities therefor in such family. The agent shall perform his or her duties under the directions of the trustees and superintendent of the children's home for which he or she is appointed, and may be assigned other duties not inconsistent with his or her regular employment as the trustees prescribe. His or her appointment shall be for one year, or until his or her successor is appointed and he shall receive such reasonable compensation for his or her service as the trustees provide. (103 v. 892.)

SECTION 3100. Children may be placed in private families; joint visiting agents. The trustees of such children's home may also place children under their charge in suitable homes in private families, through well known and established private institutions duly incorporated under the laws of the state, and approved by the board of state charities as provided by section 1352-1 of the General Code, which have as their object, the fitting for, and placing of children in families. Such trustees of two or more counties may unite in the employment of a visiting agent who shall serve them in such a manner with such compensation as the trustees so uniting prescribe. (103 v. 892.)

SECTION 3103. Reservation in contract. In all contracts for placing out children from any state or county institution, the officers making them shall expressly reserve the right to cancel the contract whenever, in their judgment, the interests of the child are not properly cared for. But nothing herein shall apply to private charitable asylums for the care, protection and training of the children that have their own methods for the visitation of such children. (80 v. 102.)

SECTION 3104. Annual report. The board of trustees shall report annually to the commissioners of the county the condition of the home, and make out and deliver to the commissioners a carefully prepared estimate, in writing, of the wants of the home for the succeeding year.

Such estimate shall specify separately the amounts required for each of the following purposes, to-wit: First, maintenance. Second, repairs. Third, special improvements. (103 v. 893.)

SECTION 3105. Appropriation of estimate. At their regular quarterly meeting at which such estimate is presented to them, the commissioners shall carefully examine the estimate, and if, in their judgment, it is reasonably and ratably within the assessment for the support of the home for the current year, or so much thereof as they deem reasonable and within such assessment, the board of commissioners shall allow and approve and shall appropriate and set apart such amount for the use of the home. Upon the order of the trustees of the home, the county auditor shall draw his warrant upon the county treasurer, who shall pay such warrant from the fund so appropriated and set apart. (99 v. 189.)

SECTION 3106. Trustees shall not furnish supplies to board. The trustees shall contract no debts and make no purchase in excess of the amount so appropriated. No member of the board of trustees of a children's home shall sell or supply any article for the maintenance of the home or be interested in any contract made by the board. (99 v. 189.)

SECTION 3107. Products may be sold. Under the rules and regulations adopted by the trustees, the superintendent may sell products not needed to maintain the home, and all receipts from this and other sources shall on the last day of each month be paid into the county treasury, and be placed to the credit of the children's home fund, to be paid out by the trustees as exigency may require. (99 v. 189.)

SECTION 3107-1. Reserve fund for payment of emergency accounts; maximum expenditure. At the request of the superintendent the board of trustees may issue an order upon the county auditor for the payment to such superintendent a sum not exceeding at any time two hundred dollars to be known and designated as a reserve fund to be used by such superintendent for payment of emergency accounts. He shall keep an itemized account of such expenditures and when such fund is about exhausted submit an itemized statement of expenditures therefrom to the county auditor before he shall honor another such order issued by the board of trustees. The amounts so paid in any fiscal year shall not exceed twenty per cent of the total expenditures for such home during the preceding year. (108 v. Pt. I, 79.)

SECTION 3108. Annual report. On the thirty-first day of August of each year, the board of trustees shall also make an annual report in writing to the commissioners, of the condition, wants and operation of the home, including a statement of the number of inmates, and if from other counties, the terms upon which they are admitted, and an accurate account of all receipts and expenditures. (99 v. 189.)

SEMI-PUBLIC HOMES

SECTION 3108-1. Aid for incorporated children's home or society. The county commissioners of any county which has no county children's home may aid an incorporated children's home or other incorporated society, whose object is the care, aid, and education of neglected or destitute children, by contributing toward the purchase of land for such home

or society, of the erection of buildings by it, or of additions to existing buildings, or other improvements to an amount not to exceed twenty-five hundred dollars in any one year; or they may contribute an amount not to exceed five hundred dollars in any one year for the purpose of keeping such property in repair, provided that in case such children's home shall cease to exist so that such property so purchased shall cease to be used for the purpose of such children's home by such corporation such county shall have a lien upon such property so purchased for the amount of money contributed for its purchase and if such corporation shall fail or be unable from any cause to maintain, manage and control such home so as to subserve the purpose of a children's home from which the same was incorporated, then such commissioners may enforce such lien or, if they so prefer and desire, they are hereby authorized and empowered upon approval of the board of state charities first obtained to organize such home into a county children's home, under the general laws of the state of Ohio, and the title to such property, where the county had contributed the whole amount of the purchase money shall vest in and be the property of such county. (103 v. 893.)

SECTION 3108-2. Semi-public homes have same rights and duties as children's home. Children's homes or societies so assisted by the county commissioners, shall be known as semi-public homes. They shall have the same rights and duties as are prescribed in the case of county children's homes by sections three thousand eighty-nine, three thousand ninety, three thousand ninety-one, three thousand ninety-three, three thousand ninety-five, three thousand ninety-six, three thousand ninety-seven, three thousand ninety-eight, three thousand ninety-nine, three thousand one hundred and three thousand one hundred and three of the General Code. They shall make to the county commissioners a monthly report on the first Monday of each month of the condition of said institution, its receipts and expenditures during the preceding month, the number of children received and discharged and the general condition of the institution.

How society shall become semi-public home. The superintendent of the infirmary of any county shall certify children to semi-public homes in the manner provided by section two thousand five hundred and forty-seven and three thousand and ninety-one in the case of county children's homes. The county commissioners shall pay for the maintenance of such children a sum to be agreed upon by the commissioners and the board of such home. A home or society desiring to be classed as a semi-public home shall state the facts to the board of state charities, which, if satisfied that such home or society is a proper subject for county aid as provided herein, shall issue its certificate that such home or society shall be known as a semi-public home. No home or society not so certified shall be entitled to receive any funds from the county commissioners as provided herein. Said certificate shall be valid for one year from the time same is issued. (103 v. 893.)

SECTION 3109. District homes may be provided. In accordance with the purposes, provisions, and regulations relating to county children's homes, when in their opinion the public good so demands, the commissioners of two or more adjoining counties, not to exceed four, may form

themselves into a joint board, and proceed to organize a district for the establishment and support of a children's home by using a site and buildings already established in one such county or by providing for the purchase of a site, and the erection of necessary buildings thereon, provided the approval of the board of state charities has been first obtained. (109 v. 534.)

SECTION 3110. Commissioners may accept private donation. Any grant or devise of land, donation or bequest of money or other personal property, made by private individuals or parties for the use and benefit of children's homes, and held in trust by special agents, executors of estates, or other persons, may be accepted and used by the commissioners of any county or district on such terms as are agreed upon by such board, and such persons, agents or executors. (73 v. 64.)

SECTION 3111. Trustees may accept bequest to district children's home. When any person has bequeathed, or hereafter bequeaths his or her estate or any part thereof to the use and benefit of a district children's home, the trustees may accept and use such bequest as they deem for the best interest of the institution, and consistent with the provisions and conditions of such bequest. (94 v. 26.)

SECTION 3112. Board of five trustees; appointment, term, meetings, etc. Immediately upon the organization of the joint board, or as soon thereafter as practicable, said joint board shall appoint five trustees, who shall hold and perform the duties of their office, until the first annual meeting after the choice of an established site and buildings or after the selection and purchase of a building site, when said joint board shall appoint a board of five trustees, who shall hold their office, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years. Annually thereafter, said joint board shall appoint one trustee, who shall hold his office for the term of five years, and until his successor is appointed and qualified. The annual meeting of the board shall be held on the first Tuesday of May in each year. (109 v. 535.)

SECTION 3113. Selection of site and erection of home. When the trustees do not choose an established institution in one of the counties of the district they may select a suitable site for the erection of such home, which must be of easy access, and when in the judgment of the trustees, equally conducive to health, economy in purchasing or in building, and to the general interest of the home and inmates, as near as practicable to the geographical center of the district and where but two counties form a district as near as may be to the dividing line. (109 v. 535.)

SECTION 3114. How trustees apportioned. Each county in the district shall be entitled to one trustee, and in districts composed of but two counties, each county shall be entitled to not less than two trustees. The county wherein such children's home is located, shall have not less than two trustees, who, in the interim of the regular meetings of the board, shall act as an executive committee in the discharge of all business pertaining to the home. (103 v. 894.)

SECTION 3115. Quorum; compensation. A majority of the trustees shall constitute a quorum, and their meetings shall be held quarterly.

They shall receive no compensation for their services, except their actual traveling expenses, which, when properly certified, shall be allowed and paid. (78 v. 122.)

SECTION 3116. Trustees may be removed for cause. The joint board of commissioners shall have power to remove any trustee, but no removal shall be made on account of religious or political opinion. The trustee appointed to fill any vacancy shall hold his office for the unexpired term of his predecessor, and until his successor is appointed and qualified. (73 v. 64.)

SECTION 3117. Commissioners may delegate powers to trustees until building is erected. In the interim, between the selection and purchase of a site, and the erection and occupancy of the home, the commissioners may delegate to the trustees such powers and duties, as, in their judgment, will be of general interest or aid to the institution. They may appropriate, from time to time, a trustees' fund, to be expended by the board of trustees in payment of such contracts, purchases, or other expenses necessary to the wants or requirements of the home, not otherwise provided for. The trustees shall make a complete settlement with the board of commissioners once in six months, or quarterly, if required, and also make a full report of the condition of the home and inmates, as provided for trustees of a county home. (73 v. 64.)

SECTION 3118. Power to purchase site, stock, implements, etc., vested in joint board. The choice of an established site and buildings or the purchase of site, stock, implements and general equipments of farm, should there be a farm, the erection of buildings, and completion and furnishing of the home ready for occupancy, shall be in the hands of the joint board of commissioners, but they may delegate all or a portion of these duties to the board of trustees, under such restrictions and regulations as they impose and provide. (109 v. 535.)

SECTION 3119. Appraisement of site; cost paid by counties in proportion to taxable property. When an established site and buildings are used the joint board shall cause the value of such site and buildings to be properly appraised. This appraisal value, or in case of the purchase of a site, the purchase price and the cost of all betterments and additions thereto, shall be paid by the counties comprising the district, in proportion to the taxable property of each county, as shown by their respective duplicates. The current expense of maintaining the home and the cost of ordinary repairs thereto, shall be paid by each such county in proportion to the number of children therefrom maintained in the home during the year. (109 v. 535.)

SECTION 3120. Industrial pursuits may be established; taxation. The trustees of county or district children's homes may establish, in connection therewith, such industrial pursuits as they deem expedient. The commissioners of all counties wherein such homes are or may hereafter be established, and the commissioners of all counties forming parts of districts wherein such homes are or may hereafter be established, are authorized to furnish by taxation, the means necessary to put into operation the object of this section. (73 v. 64.)

SECTION 3121. Commissioners and trustees of townships of adjoining county. The commissioners and trustees of townships in counties in which no children's home or other similar institution is located, and adjoining a county or district in which there is such a home, may send to it children for whom they have to provide, if the trustees of the home can receive them without detriment to children of their own county or district. The cost of maintaining these children in the home shall be no greater than the per capita cost of suitably providing for and educating the children of the county or district in the home to which they are so sent. (79 v. 58.)

SECTION 3122, repealed April 28, 1913.

SECTION 3123. How such homes supported. The board of commissioners of any county having such home, and the joint board of commissioners of district homes shall make annual assessments of taxes sufficient to support and defray all necessary expenses of the home. (79 v. 58.)

SECTION 3124. Auditor to adjust accounts every six months. The auditors of the several counties composing a children's home district, shall meet at the home, not less than once in six months, to adjust accounts, and to transact such other duties in connection with the institution as pertains to the business of their office. (73 v. 64.)

SECTION 3125. Commissioners paid actual expenses. Commissioners who meet by appointment to consider the organization of such district home shall, upon presentation of accounts properly certified, be paid their necessary expenses upon a warrant drawn therefor by the auditor of their county. (73 v. 64.)

SECTION 3126. Same laws apply to county and district homes. All provisions of this chapter, relating to county children's homes so far as applicable, including the provisions for the placement of children in private homes, shall be in force and effect in the organization, support and management of district childrens' homes. (103 v. 895.)

COUNTY HOSPITALS

SECTION 3127. County hospital; special election. When two hundred or more taxpayers of a county petition the county commissioners for the privilege of having submitted to a vote of the electors of such county the issue of county bonds or notes to provide funds for the purchase of a site and the erection thereon of a county hospital or hospital buildings, and the support thereof, such commissioners shall order a special election to be held not less than forty nor more than sixty days from the filing of such petition with such board of county commissioners. Such election shall be to determine the question of issuing bonds or notes for the county hospital, to purchase the site therefor, erect the buildings thereon and to maintain them. The election shall be held at the usual places in the county for electing county officers and notice shall be given and the election conducted in the same manner as nearly as practicable as the election of county officers. (99 v. 486.)

SECTION 3128. Filing of petition; notice of election. The petitions thus filed with the county commissioners shall stipulate the maximum amount of money to be expended in purchasing or building such hospital, and it shall be published with notices of the election in at least two newspapers of opposite politics of general circulation in the county, at least one time, twenty or more days prior to the election.

May be designated as a memorial, when; equipment. And when a majority of the taxpayers signing the petitions submitted to the county commissioners under the preceding section, shall state therein that it is desired by them that such hospital be designated as a memorial to commemorate the services of the soldiers, sailors, marines and pioneers of the county, then such hospital, if erected in accordance with the provisions of this act, shall be known and designated as a county memorial hospital; and such plates, tablets, busts, statues and other memorials and equipment as the board of county hospital trustees hereinafter provided for shall deem fit to properly accomplish and preserve the memorial feature in such hospital, shall be incorporated in its construction. And if the memorial feature be thus incorporated, this fact shall be mentioned in the published notices hereinbefore required. (108 v. Pt. I, 255.)

SECTION 3129. Form of ballot. The ballots to be used at such election shall be provided with the following affirmative and negative statement:

“For bond issue for purchase of the site and erection of county hospital.”

“Against bond issue for purchase of site and erection of county hospital.” (99 v. 487.)

SECTION 3130. Issue of bonds. If a majority of the electors of the county voting at such election are in favor of the issuance of bonds, the commissioners shall provide for the issuing and sale thereof according to law and in conformity to the provisions of this chapter. (108 v. Pt. I, 256.)

SECTION 3131. Result certified to governor; appointment of trustees. If a majority of the electors of the county voting at such election are in favor of the issuance of bonds, the deputy state supervisors of elections for such county shall certify the result of such election to the governor of the state; whereupon the governor shall, within ten days after the receipt of such certification, appoint a board of county hospital trustees, composed of four freeholders of such county.

Such board shall be bi-partisan, with two members from each of the two political parties casting the highest number of votes in such county for their respective candidates for governor at the next preceding gubernatorial election. And the governor shall forthwith notify the persons so selected of their appointment as such trustees, by mail, and fix a date not more than ten days later when such trustees shall meet at the county seat of such county to organize such board.

Organization of board. On the date thus fixed such trustees shall meet and organize such board by electing one of their number as chairman and another as secretary. The county commissioners shall fill all vacancies which may occur in such board of trustees, as well as in the

board of hospital trustees hereinafter provided for, which may result from death, resignation or removal from office. Such board of trustees shall hold such meetings as the performance of its duties may require and shall keep a record of its proceedings and a strict account of all its receipts, disbursements and expenditures; and upon completion of their duties as herein provided, they shall file such account with the board of county commissioners and make final settlement with such board.

Such hospital trustees shall serve until such hospital be fully completed and sufficiently equipped for occupancy, whereupon their successors shall be appointed as hereinafter provided. (108 v. Pt. I, 256.)

SECTION 3132. Powers and duties of trustees; bonds. Such board of trustees shall have full charge and control of the selection and purchase of a site for such hospital (taking title thereto in the name of the county), the selection of plans and specifications, the determination and erection of all necessary buildings thereon, and of the selection and installation of all necessary and proper furniture, fixtures and equipment therefor.

Such hospital trustees and their successors herein provided for may receive and hold in trust for the use of the hospital any grant or devise of land or any gift or bequest of money or other personal property that may be given for the erection or support of the hospital.

The trustees shall serve without compensation, but shall be allowed their necessary and reasonable expenses incurred in the performance of their duties, the same to be paid out of the funds provided for such hospital. They may employ such help as they shall deem necessary to perform their clerical work and to superintend properly the construction of such hospital, and pay the expenses thereof out of the funds provided for such hospital.

Each trustee shall give bond for the proper performance of his duties in such sum as the board of county commissioners may require, with sureties to its approval. (108 v. Pt. I, 256.)

SECTION 3133. Sale of bonds. Upon the certificate of such trustees, stating the amount necessary, the county commissioners shall issue and sell the bonds of the county in the amount so certified but not in excess of the amount named in said petitions. Said bonds shall be sold in anticipation of taxes to be levied as hereinafter provided; they shall bear interest at a rate not exceeding six per cent per annum, payable semi-annually, and the proceeds thereof shall be used for the purpose of purchasing a site and erecting hospital buildings, or of purchasing a site with buildings already erected thereon and for equipping and maintaining the same.

Tax levy. Annually thereafter the commissioners shall levy, in addition to all other levies authorized by law, an amount sufficient to properly maintain and conduct said hospital and furnish such extensions and further equipment thereof as may be necessary; and also to provide a sufficient sinking fund for the ultimate payment of such bonds and interest as the same shall mature. (108 v. Pt. I, 257.)

SECTION 3134. County Hospital Fund. The fund arising from the sale of such bonds shall be placed in the county treasury to the credit

of a fund to be known as the "county hospital fund." And such fund shall be paid out on the order of said board of county hospital trustees, certified by the chairman and secretary thereof.

If, upon the final completion of such county hospital, an unexpended balance of the fund remains in the county treasury, such balance shall be placed and kept to the credit of the sinking fund herein provided for. (108 v. Pt. I, 257.)

SECTION 3135. Shall advertise for bids. Before making a contract for the expenditure of money on any structure or improvement in excess of one thousand dollars, the hospital trustees shall advertise according to law for bids, and cause plans, specifications and detailed drawings to be distributed among the bidders. (99 v. 488.)

SECTION 3136. Hospital trustees; appointment; vacancies. When said hospital shall have been fully completed and sufficiently equipped for occupancy as hereinbefore provided, the county commissioners shall appoint a board of four trustees as follows: one for one year, one for two years, one for three years and one for four years from the first Monday of March thereafter. Not more than two of such trustees shall be of the same political party. Annually thereafter on the first Monday of March, the county commissioners shall appoint one such trustee, who shall hold his office for the term of four years and until his successor be appointed and qualified.

The commissioners shall immediately fill any vacancy in such board which may be caused by death, resignation or removal, by appointment for the unexpired term. They may remove any trustee appointed by such board of commissioners for cause impairing faithful, efficient and intelligent administration, or for conduct unbecoming to such office, after an opportunity be given to be heard upon written charges; but no removal shall be made for political reasons. (108 v. Pt. I, 257.)

SECTION 3137. Organization of trustees. Upon the appointment and qualification of such trustees as herein provided, they shall organize by the election of one of their members as president and another as clerk. Such board shall hold meetings at least once a month, and shall adopt necessary rules for the regulation of its business, and keep a complete record of its proceedings. Three members of such board shall constitute a quorum.

Control of property. Such board shall assume and continue the operation of such hospital. It shall have the entire management and control of the hospital and shall establish such rules for the government thereof and the admission of persons thereto as it deems expedient; it shall have control of the property of the hospital and deposit all monies thereof with the county treasurer to the credit of the hospital fund; and the same shall be paid out only for the maintenance and operation of such hospital, on the warrant of the county auditor, issued pursuant to the orders of the trustees.

Employment of superintendent. Such board shall employ a superintendent, and, upon the nomination by such superintendent, shall confirm the employment of such physicians, nurses and other employes as may be necessary for the proper care, control and management of such hospital

and its inmates; and shall fix their respective salaries and compensation; and any such person may be removed by such trustees at any time when, in their judgment, the welfare of such institution may so warrant.

Fixing compensation for treatment. Such trustees may determine whether patients presented at the hospital for treatment are subjects for charity, and shall fix the compensation to be paid by patients other than those unable to assist themselves. They may provide for the free treatment in such hospitals of soldiers, sailors and marines of the county, under such conditions and regulations as they shall prescribe.

Bond. The hospital superintendent herein provided for shall give such bond for the faithful performance of his duties as such trustees may require and with sureties to their approval.

Annual statement to commissioners. The trustees shall annually on the first day of March file with the county commissioners a statement of their receipts and expenditures for the preceding year and shall submit to such commissioners an estimate of the financial requirements of such hospital for the ensuing year. (108 v. Pt. I, 258.)

SECTION 3138. Annual report. On the first Monday in April of each year, the hospital trustees shall file with the commissioners of the county a report of their proceedings with reference to the hospital, and a statement of their receipts and expenditures during the year. At such time the trustees shall certify the amount necessary to maintain and improve the hospital for the ensuing year. (99 v. 488.)

SECTION 3138-1. Contract by commissioners for care of indigent sick. That the board of county commissioners of any county may enter an agreement with one or more corporations or associations, organized for charitable purposes, or with one or more corporations or associations organized for the purpose of maintaining and operating a hospital in any county where such hospital has been established, for the care of the indigent sick and disabled, excepting persons afflicted with pulmonary tuberculosis, upon such terms and conditions as may be agreed upon between said commissioners, and such corporations or associations, and said commissioners, shall provide for the payment of the amount agreed upon, either in one payment or installments, or so much from year to year, as the parties stipulate. Nothing herein shall authorize the payment of public funds to a sectarian institution. County commissioners shall have authority to employ the necessary and properly qualified employes to assist them in carrying out all responsibilities devolving upon them by reason of any agreement, or agreements, entered into in accordance with the provisions of this section. (109 v. 77.)

SECTION 3138-2. Tax levy. The board of commissioners may annually, at the June session, levy a tax not exceeding two-tenths of one mill upon the taxable property of said county for the purpose of providing such aid and assistance to any such corporation or associations; and all taxes so levied and collected under this act shall be applied under the order of said board to the purpose for which the same are so levied and collected. (101 v. 166.)

TUBERCULOSIS HOSPITALS

SECTION 3139. Patients shall not be kept at infirmary. On and after January first, nineteen hundred and fourteen, no person suffering from pulmonary tuberculosis, commonly known as consumption, shall be kept in any county infirmary. (103 v. 492.)

SECTION 3140. Maintenance in hospitals; costs. Whenever complaint is made to the state board of health that a person is being kept or maintained in any county infirmary in violation of section 3139 of this act, such state board of health may make arrangements for the maintenance of such person in some hospital or other institution in this state devoted to the care and treatment of cases of tuberculosis, and the cost of removal to, and the cost of maintenance of, such person in such hospital or institution shall become a legal charge against, and be paid by the county in which such person has a legal residence. If such person is not a legal resident of this state, then such expense shall be paid by the county maintaining the infirmary from which removal is made. (103 v. 492.)

SECTION 3141. How hospital shall be supported. In any county where a county hospital for tuberculosis has been erected such county hospital for tuberculosis may be maintained by the county commissioners, and for the purpose of maintaining such hospital the county commissioners shall annually levy a tax and set aside the sum necessary for such maintenance. Such sum shall not be used for any other purpose. When it shall become necessary to enlarge, repair or improve a county hospital for tuberculosis, the county commissioners shall proceed in the same manner as provided for other county buildings. Plans and estimates of cost for all additions to county hospitals for tuberculosis shall be submitted to and approved by the state board of health and the board of state charities. (107 v. 495.)

SECTION 3141-1. When county having joined in erection of tuberculosis hospital may erect and maintain a hospital; tax levy. In any county which has joined in the erection of a district tuberculosis hospital and in which such hospital has not capacity to afford suitable accommodation for all cases of tuberculosis that should be admitted to such institution, and where the trustees of such district tuberculosis hospital or the joint board of county commissioners fail or refuse to provide additional accommodation in such hospital, the county commissioners may, with the consent of the state department of health, erect and maintain a county tuberculosis hospital. For the purpose of constructing and maintaining such county hospital the county commissioners may issue bonds and shall annually levy a tax and set aside the funds necessary for such maintenance. Such funds shall not be used for any other purpose. When it shall become necessary to enlarge, repair, or improve such county hospital for tuberculosis, the county commissioners shall proceed in the same manner as provided for other county buildings. Plans and estimates of cost for all additions to hospitals for tuberculosis shall be submitted to and approved by the state department of health and the board of state charities. (108 v. Pt. I, 230.)

SECTION 3142. Account of and application of moneys. An accurate account shall be kept of all moneys received from patients or from other sources, which shall be applied toward the payment of maintaining a tuberculosis hospital. The county commissioners maintaining a county tuberculosis hospital or the joint board of commissioners, as hereinafter provided for, may receive for the use of the hospital, in its name, gifts, legacies, devises, conveyances of real or personal property or money. (107 v. 496.)

SECTION 3143. Commissioners may contract with other county or trustees, etc., for care and treatment. Instead of joining in the erection of a district hospital for tuberculosis, as hereinafter provided for the county commissioners may contract with the board of trustees, as hereinafter provided for, of a district hospital, the county commissioners of a county now maintaining a county hospital for tuberculosis or with the proper officer of a municipality where such hospital has been constructed, for the care and treatment of the inmates of such infirmary or other residents of the county who are suffering from tuberculosis. The commissioners of the county in which such patients reside shall pay to the board of trustees of the district hospital or into the proper fund of the county maintaining a hospital for tuberculosis, or into the proper fund of the city receiving such patients, the actual cost incurred in their care and treatment, and other necessities, and they shall also pay for their transportation. Provided, that the county commissioners of any county may contract for the care and treatment of the inmates of the county infirmary or other residents of the county suffering from tuberculosis with an association or corporation, incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis; but no such contract shall be made until the institution has been inspected and approved by the state board of health, and such approval may be withdrawn and such contracts shall be cancelled if, in the judgment of the state board of health, the institution is not managed in a proper manner. Provided, however, that if such approval is withdrawn, the board of trustees of such institution may have the right of appeal to the governor and attorney general and their decision shall be final. (107 v. 496.)

SECTION 3144. Powers of state board of health as to removal of inmates. In any county which has not provided for a county hospital for tuberculosis, or which has not joined in the erection of a district hospital for tuberculosis, the state board of health, upon a proper presentation of the facts, may order any inmate of the infirmary who is suffering from tuberculosis removed to a municipal, county, or district hospital for tuberculosis, but such removal shall not be made without the consent of the inmate, if a suitable place outside of the infirmary, approved by the state board of health, is provided for his or her care and treatment. The state board of health upon a proper presentation of facts, shall also have authority to order removed to a municipal, county or district hospital for tuberculosis, any person suffering from tuberculosis, when in the opinion of the state or a local board of health, such person is a menace to the public and cannot receive suitable care or

treatment at home, provided, however, that such person shall have the right to remove from the state. (107 v. 496.)

SECTION 3145. Applicants; investigation of. The medical superintendent shall investigate applicants for admission to the hospital for tuberculosis who are not inmates of the county infirmary and may require satisfactory proofs that they are in need of proper care and have tuberculosis. The board of trustees may require from any such applicant admitted from the county or counties maintaining the hospital a payment not exceeding the actual cost incurred in their care and treatment, including necessities and cost of transportation, or such less sum as they may deem advisable, owing to the financial condition of the applicant. (107 v. 497.)

SECTION 3146. Purpose of district hospital. The district hospital for tuberculosis, as hereinafter provided for, shall be devoted to the care and treatment of those admitted to the county infirmary within the district afflicted with tuberculosis, and of other residents of the district suffering from the disease and in need of proper care and treatment. (107 v. 497.)

SECTION 3147. Supervision by state board of health. The state department of health shall have general supervision of all hospitals for tuberculosis and shall prescribe and may enforce such rules and regulations for their government as it deems necessary. All persons in charge of or employed at such hospital or residents thereof, shall faithfully obey and comply with all such rules and regulations. The location, plans and estimates of cost for all district hospitals for tuberculosis or additions thereto shall be submitted to and approved by the state department of health, and the board of state charities. (108 v. Pt. I, 230.)

SECTION 3148. Joint county tuberculosis hospital. The commissioners of any two or more counties not to exceed ten, may, and upon the favorable vote of the electors thereof in the manner hereinafter provided shall form themselves into a joint board for the purpose of establishing and maintaining a district hospital, provided there is no municipal tuberculosis hospital therein for care and treatment of persons suffering from tuberculosis. Two per cent of the electors of any proposed joint district may file a petition with the board of deputy state supervisors of elections of the most populous county in such proposed district designating the counties in such district; such board shall at once certify such fact to the election boards of the counties comprising such districts, and such proposition shall be placed on the ballot at the next regular or general election occurring more than sixty days after the filing of such petition. If a majority of the electors voting on the proposition in each county of the proposed district vote in favor thereof, such district shall be established. After the establishment of such joint district, either by voluntary action of the commissioners or as the result of such election, such joint board shall provide the necessary funds for the purchase of a site, which site shall be separate and apart from the infirmary boundaries in any county and also shall provide for the erection of the necessary buildings thereon; and provided further that where any number of counties have already constructed and are operating a district tubercu-

losis hospital, counties may join such counties for enlargement and use of such hospital, and providing further that the county commissioners of any county within a district which desires to withdraw from said district, may dispose of its interest in said district hospital by selling same to any county or counties in said district at a price fixed by a board of appraisers composed of the county auditors of the counties of the district, and said auditors shall, upon application made to them by the county commissioners of any county of the district in which said hospital is located which desires to so withdraw, constitute themselves as such board for determining the price to be paid said county for their interest and subject to the approval of the state department of health. Any new district or addition to a district shall be approved by the state department of health. Such necessary expenses as may be incurred by the county commissioners in meeting with the commissioners of other counties for consideration of the proposal to establish a district tuberculosis hospital shall be paid from the general fund of the county. After the organization of the joint board such expenses shall be paid from the fund provided for the erection and maintenance of such hospital. (110 v. 43.)

SECTION 3148-1. Tuberculosis hospitals in certain counties. The county commissioners of any county having more than 50,000 population as shown by the last federal census may, with the consent of the state department of health, provide the necessary funds for the purchase or lease of a site and the erection and equipment or lease and equipment of the necessary buildings thereon for the operation and maintenance of a county hospital for the treatment of persons suffering from tuberculosis. Any municipality within said county at present maintaining and operating a hospital for the treatment of tuberculosis may continue to maintain said hospital as a municipal hospital, or may lease or sell the same to the county. (109 v. 212.)

SECTION 3148-2. Control vested in board of trustees. The management and control of such tuberculosis hospital shall be vested in a board of trustees, which board of trustees shall have all the powers conferred by law upon the board of trustees of district hospitals for the care of persons suffering from tuberculosis, and all laws applicable to the levy of taxes for the erection, maintenance and operation of said district hospitals shall apply to the leasing, erection, operation and maintenance of said county hospital for the treatment of persons suffering from tuberculosis. (108 v. Pt. I, 253.)

SECTION 3148-3. Trustees. The county commissioners may constitute the board of trustees of such hospital. (109 v. 212.)

SECTION 3149. May appropriate property; donation. In the selection and acquirement of such site the joint board shall have the same powers for the appropriation of lands as are conferred upon boards of trustees of benevolent institutions of the state. They may receive and hold in trust for the use and benefit of such institution, any grant or devise of land and any donation or bequest of money or other personal property that may be made for the establishment or support thereof. (100 v. 87.)

SECTION 3150. Board of trustees; term, vacancies, removals. As soon as possible after organization, the joint board shall appoint a board of trustees to consist of one member from each county represented. Such trustees shall hold their offices as follows: One for one year, one for two years, and where three counties are represented, one for three years, and, where four counties are represented, one for four years, and, where five counties are represented, one for five years, and annually thereafter the joint board of commissioners shall appoint one trustee for a term of as many years as there are counties represented, and until his successor is appointed and qualified. Any vacancy shall be filled by an appointment in like manner for the unexpired term of the original appointment. The joint board of commissioners may remove any trustee for good and sufficient cause after a hearing upon written charges. (100 v. 87.)

SECTION 3151. (3153.) Powers of trustees. Subject to the provisions of this chapter, such board of trustees shall prepare plans and specifications and proceed to erect and furnish the necessary buildings for a district hospital for tuberculosis. They shall appoint a suitable person medical superintendent of the hospital, who shall not be removed except for cause, and, upon the recommendation of the superintendent, such nurses and other employes as may be necessary for the proper conduct of the hospital. The trustees shall fix the compensation of the medical superintendent and other employes. Subject to the rules and regulations prescribed by the board of trustees, the superintendent shall have entire charge and control of the hospital. The trustees shall serve without compensation, but their necessary expense when engaged in the business of the board shall be paid. The trustees, medical superintendent or nurses of such hospital are authorized to attend conferences where the care, treatment or prevention of tuberculosis is a subject for consideration. (107 v. 498.)

SECTION 3152. Cost and maintenance; quarterly statement. The first cost of the hospital, and the cost of all betterments and additions thereto, shall be paid by the counties comprising the district, in proportion to the taxable property of each county outside of a municipality having a tuberculosis hospital as shown by their respective duplicates. To meet the expenses incurred in the purchase of a site and for the erection of buildings or for the purpose of enlarging, improving or rebuilding thereof, the commissioners may borrow such sum or sums of money as may be apportioned to the county, at a rate of interest not to exceed six per cent per annum, and issue the bonds of the county to secure the payment of the principal and interest thereof. Such principal and interest shall be paid as provided in section 2435 of the General Code. A statement shall be prepared quarterly showing the per capita daily cost for the current expenses of maintaining such hospital, including the cost of the ordinary repairs, and each county in the district shall pay its share of such cost as determined by the number of days the total number of patients from such county have spent in the hospital during the quarter, but the sum paid by patients from such county for their treatment therein shall be deducted from this amount. The boards of commissioners of counties jointly maintaining a district hospital for tuberculosis shall

make annual assessments of taxes sufficient to support and defray the necessary expense of maintenance of such hospital. (103 v. 494.)

SECTION 3152-1. Taxes for tuberculosis hospital. All taxes levied by the county commissioners of any county under the provisions of section thirty-one hundred and fifty-two shall, when collected, be paid over to the trustees of the district tuberculosis hospital upon the warrant of the county auditor, at the same time that school and township moneys are paid to the respective treasurers; and the board of trustees shall receipt therefor and deposit said funds to its credit in a bank or banks of trust company to be designated by it, and said bank or trust company shall give to said board, a bond therefor in an amount at least equal to the amount so as aforesaid deposited; and thereupon said funds may be disbursed by said board of trustees for the uses and purposes of said district tuberculosis hospital, and accounted for as provided in the foregoing sections. Each trustee shall give bond for the faithful performance of his duties in such sum as may be fixed by the joint board of commissioners, the expense of such bond, if any, shall be paid out of the fund for the maintenance of the hospital. The bond of each trustee, after being approved by the joint board of commissioners, shall be filed with the auditor of the county represented by him. (101 v. 363.)

SECTION 3152-2. Petition and hearing for equitable apportionment of expense. Whenever after any district tuberculosis hospital has been established and operated for a continuous period of five or more years, a new site, a new hospital building or buildings, betterments and additions to an existing building or buildings, or new equipment become necessary, any county in the district may complain by proper petition to the court of common pleas of the county in which said district tuberculosis hospital is located, stating that it is unjust and inequitable that such complaining county should pay for the said expense or to be incurred in proportion to its taxable property, as provided by section 3152 of the General Code. In such petition the complaining county shall be the plaintiff and all other counties of said district shall be defendants, and each shall be required to answer said petition within the ordinary answer day required in civil actions. Upon answer or in default thereof the matter shall come on for hearing before said court of common pleas, and upon full hearings said court of common pleas may make such order of apportionment of said expense between the counties as may be just, proper and equitable, and thereupon such order shall be binding as between the counties, and in lieu of the apportionment prescribed by said section 3152 of the General Code. (106 v. 506.)

SECTION 3153. Meetings; annual report. Such board of trustees shall meet monthly and at such other times as they deem necessary. On the first Monday in April of each year they shall file with the joint board of county commissioners and with the state board of health annual report of the operation of such district hospital, including a statement of all receipts and expenditures during the year, and at such time shall certify the amount necessary to maintain and improve the hospital for the ensuing year. The county commissioners maintaining a county hospital for tuberculosis on the first Monday in April of each year, shall file with the state board of health an annual report of the operations of such

county hospital including a statement of all receipts and expenditures during the year. (103 v. 495.)

SECTION 3153-1. Appointment of nurses. The county commissioners may appoint one or more instructing and visiting nurses who may visit any home or place in the county wherein there is a case of tuberculosis, but such appointments shall be subject to the approval of the state department of health. (108 v. Pt. I, 231.)

SECTION 3153-2. Supervision of nurses. Where such appointments are made by the board of county commissioners, such nurses shall be subject to the supervision of the county commissioners, and the state department of health, and may be detailed for service under any local board of health or health department having jurisdiction. (108 v. Pt. I, 231.)

SECTION 3153-3. Compensation. The board of county commissioners appointing such instructing and visiting nurses shall fix the compensation of such nurses, and may authorize such nurses to attend conferences where the care, treatment or prevention of tuberculosis, public health or nursing are subjects for consideration. Such compensation and the necessary expenses incurred by such nurses shall be paid from the poor fund of the county, or from the funds provided for the hospital for tuberculosis. (108 v. Pt. I, 231.)

SECTION 3153-4. District tuberculosis dispensaries. A joint board of county commissioners created by section 3148 of the General Code for the purpose of establishing and maintaining a district hospital for tuberculosis may establish and maintain one or more tuberculosis dispensaries in the counties comprising the district and may provide by tax levies or otherwise the necessary funds for their establishment and maintenance. (107 v. 498.)

SECTION 3153-5. County tuberculosis dispensaries. In such counties as maintain county hospitals for tuberculosis as provided by section 3141 of the General Code or in such counties as have contracts for the care of tuberculosis patients with municipal tuberculosis hospitals located within their county, the county commissioners may establish and maintain one or more tuberculosis dispensaries in the county and may provide by tax levies or otherwise the necessary funds for their establishment and maintenance. (107 v. 498.)

SECTION 3153-6. When tuberculosis dispensaries may be established. In such counties as have not constructed a county hospital for tuberculosis, or have not contracted with a municipal tuberculosis hospital, or in such counties as have joined in the construction of a district tuberculosis hospital and in which the joint board of county commissioners of such district shall fail or refuse to maintain tuberculosis dispensaries as herein provided, the county commissioners may establish and maintain one or more tuberculosis dispensaries in the county and may employ physicians, public health nurses and other persons for the operation of such dispensaries or of other means provided for the prevention, care and treatment of cases of tuberculosis and may provide by tax levies or otherwise the necessary funds for their establishment and maintenance. (108 v. Pt. I, 231.)

SECTION 3153-7. Approval by state board of health. The establishment of any tuberculosis dispensary, as provided for in the foregoing sections shall be approved by the state board of health. The state board of health shall prescribe rules and regulations governing the operation of all such dispensaries and shall prescribe suitable forms and regulations for the reports of all such dispensaries. (107 v. 499.)

DETENTION HOSPITALS

SECTION 3154. Detention hospitals. Upon the request of the probate judge, the county commissioners of the county may establish a place to be known as the detention hospital for alleged insane persons. Such place shall consist of a hospital or ward, or other suitable place available for this purpose which shall be in close proximity to the probate court. It shall be under the charge, supervision and control of a superintendent, who shall be a registered physician, appointed by the probate judge, and such other assistants as may be required, who shall be appointed by the superintendent with the approval of the probate judge. In counties wherein a municipality owns and controls a hospital the county commissioners may contract with the authorities having charge and control of the municipal hospital for the care of such alleged insane persons. (99 v. 210.)

SECTION 3155. Committal and discharge. The probate judge may commit to the detention hospital all persons brought before him, alleged to be insane whose cases are doubtful or whose insanity is likely to be temporary, and also all insane persons who can not be committed to or received into the state hospital. A person so committed shall be detained in the hospital until the superintendent and the probate judge determine that the person so committed is cured, or is a fit subject for the state hospital. When it is determined that such person is cured, he or she shall be discharged, and when it is determined that such person is a fit subject for the state hospital, application shall be made for his or her admission thereto as in other cases. (99 v. 210.)

SECTION 3156. Inmates, powers over, privileges. The person or persons in charge of the detention hospital shall be the guardians of the persons committed to such hospital for the purpose of retaining them therein. Persons so committed shall have the privilege of freely writing to and corresponding with their relatives, friends, physicians and legal advisers, without censorship, and they may also receive visits from them, except when it is deemed inadvisable by the superintendent. A physician representing the family, or patient, shall be admitted at all times. (99 v. 210.)

JAILS

DUTIES OF SHERIFFS

SECTION 3157. Sheriff to have charge of jail. The sheriff shall have charge of the jail of the county, and all persons confined there, keep them safely, attend to the jail, and govern and regulate it according to the rules and regulations prescribed by the court of common pleas. (41 v. 74.)

SECTION 3158. Sheriff to keep jail register, and what to be entered therein. The sheriff shall cause to be entered in a suitable book, called the jail register, and kept in the office of the jailer, and delivered to his successor in office the following:

First—The name of each prisoner, the date and cause of his commitment.

Second—Date and manner of his discharge.

Third—What sickness has prevailed in the jail during the year, and the cause thereof.

Fourth—Whether any, or what labor has been performed by the prisoners, and the value thereof.

Fifth—The practice observed during the year of whitewashing and cleaning the occupied cells, or apartments, and the time and season of so doing.

Sixth—The habits of the prisoners as to personal cleanliness, diet and order.

Seventh—The operation of the rules prescribed by the court of common pleas.

Eighth—The means of literary, moral, and religious instruction, and of labor, furnished prisoners.

Ninth—Other matters required by such rules, or deemed proper by the sheriff. (41 v. 74.)

SECTION 3159. Sheriff to make and file jail reports. On or before the first Monday of November in each year, from the jail register, the sheriff shall make in writing a jail report, one copy of which he shall forthwith file in the office of the clerk of the court of common pleas and one copy he shall file with the county auditor. He shall transmit one copy to the secretary of state, who shall communicate such reports to the general assembly annually on or before the twentieth day of November. (41 v. 74.)

SECTION 3160. Sheriff required to regularly visit jail. The sheriff shall visit the jail, and examine into the condition of each prisoner at least once during each month, and once during each term of the court of common pleas. He shall cause the cells and rooms used for the confinement of prisoners to be thoroughly whitewashed at least three times each year. (41 v. 74.)

SECTION 3161. Keeper of the jail. The sheriff may appoint one of his deputies to be keeper of the jail. (41 v. 74.)

RULES AND REGULATIONS

SECTION 3162. Rules for regulation of jail. The court of common pleas shall prescribe rules for the regulation and government of the jail of the county, not inconsistent with the law, upon the following subjects:

First—The cleanness of the prison and prisoners.

Second—The classification of prisoners as to sex, age, crime, idiocy, lunacy and insanity.

Third—Bed and clothing.

Fourth—Warming, lighting, and ventilation of the prison.

Fifth—The employment of medical or surgical aid when necessary.

Sixth—Employment, temperance, and instruction of the prisoners.

Seventh—The supplying of each prisoner with a copy of the Bible.

Eighth—The intercourse between prisoners and their counsel, and other prisoners.

Ninth—The punishment of prisoners for violation of the rules of the prison.

Tenth—Other regulations necessary to promote the welfare of the persons. (41 v. 74.)

SECTION 3163. **Printed copies of the rules to be furnished to the sheriff.** The court shall cause a copy of such rules to be delivered to the county commissioners, who shall forthwith cause them to be printed, and deliver to the sheriff a printed copy thereof for each room and cell of the jail, and forward a copy by mail to the auditor of state, who shall file and preserve it. (41 v. 74.)

SECTION 3164. **Sheriff to post rules in each room and cell.** The sheriff, on the receipt of such printed rules, shall keep a copy thereof posted in some conspicuous place in each room and cell of the jail. (41 v. 74.)

SECTION 3165. **Court may alter rules.** The court from time to time may revise, alter, or amend such rules; and such revised, altered or amended rules shall be printed and disposed of by the commissioners and sheriff in the manner directed for original rules. (41 v. 74.)

SECTION 3166. **Prisoners in county jails must be separated.** When the construction of a county jail will permit, the separation of prisoners shall be maintained, and no prisoners therein awaiting trial shall be placed, or allowed to remain in the same cell or room with another prisoner. (88 v. 150.)

SECTION 3167. **Common pleas court to prescribe rules.** Judges of the court of common pleas having jurisdiction therein in prescribing rules for the government of jails, shall provide for the enforcement of the provisions of the preceding section. (88 v. 150.)

SECTION 3168. **Law to be enforced by county officers.** County officers having charge of the construction of a new jail shall provide for the separate confinement of prisoners as required by the provisions of the two preceding sections. (88 v. 150.)

SECTION 3169. **Minor shall not be confined with adult prisoner.** No child under sixteen years of age, held for trial or sentenced to a jail or other place of confinement, shall be placed or allowed to remain in the same cell or room with adult prisoners, when the jail or prison will admit of such separation. The officer in charge of such place of confinement shall secure, as far as the construction of the place will admit, the exclusion of such children from the society of adult prisoners during their confinement. (80 v. 102.)

SECTION 3177. **What the commissioners shall provide; physicians; report of sheriff.** The county commissioners, at the expense of the county, shall provide suitable means for warming the jail, and its cells

and apartments, frames and sacks for beds, night buckets, fuel, bed, clothing, washing, nursing when required, and such fixtures and repairs as are required by the court. They may appoint a physician for the jail, at such salary as is reasonable, to be paid from the county treasury. Such physician, or any physician or surgeon employed in the jail, shall make a report in writing when required by the commissioners, the grand jury or the court. The sheriff shall make a report to the commissioners annually, or oftener if they so require, of the property of the county in the jail, and the condition thereof. (87 v. 186.)

SECTION 3178. Jail matrons; appointment, duties and compensation. The sheriff may appoint not more than three jail matrons, who shall have charge over and care for the insane, and all female and minor persons confined in the jail of such county, and the county commissioners shall provide suitable quarters in such jail for the use and convenience of such matrons while on duty. Such appointment shall not be made, except on the approval of the probate judge, who shall fix the compensation of such matrons not exceeding one hundred dollars per month, payable monthly from the general fund of such county upon the warrant of the county auditor upon the certificate of the sheriff. No matron shall be removed except for cause, and then only after hearing before such probate judge. (108 v. Pt. II, 1125.)

SECTION 3179. Prisoners of the United States may be confined in jails. The sheriff shall receive prisoners charged with or convicted of crime committed to his custody by the authority of the United States, and keep them until discharged by due course of law. A prisoner committed for an offense by the authority of the United States shall be supported at the expense thereof during his confinement in jail. No greater compensation shall be charged by the sheriff for the subsistence of such prisoner, than is authorized by law to be charged for the subsistence of state prisoners. The commissioners of a county in which a prisoner so committed may be confined shall receive from the United States one dollar per month for the use of the jail for each person so committed. A sheriff or jailer who neglects or refuses to perform the services and duties required of him by this section shall be liable to like penalties, forfeitures, and actions, as if such prisoner had been committed under the authority of this state. (57 v. 108.)

SECTION 3180. Holding religious service and conducting welfare work. Each administrative board or other authority in the state having control of a county jail, shall provide for holding religious services and the conducting of other welfare work therein by such persons or organizations and at such times as the probate judge of the county in which such jail is located may from time to time authorize and direct. (109 v. 526.)

LEASE OF COAL LANDS

SECTION 3187. Lease by Ohio board of administration, for coal. Whenever the Ohio board of administration shall notify the state supervisor that it desires to lease any such lands for the purpose of mining

coal therefrom for the use of the state and such Ohio board of administration has entered into an agreement with the lessee of the surface of such lands holding under a lease from the trustees of an original surveyed township or other board or officer empowered by law to execute and deliver such leases, reimbursing such surface lessee for all damages that he may suffer by reason of the entry upon such lands by the Ohio board of administration for the purpose of operating a coal mine thereon, the state supervisor shall execute a coal lease thereon to such Ohio board of administration. Such lease shall reserve to the state such royalties as may be determined by the state supervisor, the governor and the attorney general acting as a board for such purpose. And the Ohio board of administration is authorized to execute and delivery of (deliver) such lease. (107 v. 364.)

SECTION 3188. Operation of mines; coal furnished state at cost. The Ohio board of administration may mine coal from any of the lands set aside by Congress for the support of the schools or the purposes of religion, and leased by it pursuant to law. It may employ for the purpose of operating such mines, all necessary superintendents, foremen, miners, engineers or other labor. Such coal shall be furnished the state and its public institutions at the actual cost of production, such cost to include a sufficient charge to cover the cost of replacement of and interest upon any permanent improvement upon such mining property. Any person employed in such mining operations shall be in the unclassified civil service of the state. (107 v. 381.)

ENUMERATION OF UNFORTUNATES

SECTION 3360. Quadrennial enumeration of unfortunates. Quadrennially at the time of taking a list of property for taxation, each assessor shall take an enumeration of all deaf and dumb, blind, epileptic and epileptic insane, insane and idiotic persons, whose usual place of residence is in any family, jail or infirmary in his township or precinct, on the day preceding the second Monday of April, with their names in full, their age, sex, race, residence, whether in charge of parents or guardian, and, where known, the cause and duration of such deficiency. He shall make a list of such deaf and dumb, blind, epileptic and epileptic insane, insane and idiotic persons, designating those of each class, and the names of their parents or guardians, and post-office address, and return it to the county auditor, on or before the third Monday of May in the same year. (91 v. 97.)

ENUMERATION OF EPILEPTICS AND EPILEPTIC INSANE

SECTION 3361. Abstract of returns of epileptics and epileptic insane. Quadrennially, on or before the third Saturday in August, on blanks to be furnished by such manager, the auditor of each county shall make and transmit to the manager of the Ohio hospital for epileptics, a duly certified abstract of the enumeration returns of epileptics and epileptic insane, so made to him by the assessors, and at the same time make and furnish the probate judge of his county a like certified abstract of epileptics and epileptic insane in the county, as returned by the

assessors. For making and transmitting such abstract, the auditor shall receive eight cents per hundred words, to be paid from the county treasury on the allowance of the county commissioners. (91 v. 97.)

POOR

SECTION 3476. Trustees and corporation officers shall afford relief. Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in section 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they cannot be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city. (108 v. Pt. I, 272.)

SECTION 3477. Legal settlement defined. Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, subject to the following exceptions:

First—An indentured servant or apprentice legally brought into this state shall be deemed to have obtained legal settlement in the township or municipal corporation in which such servant or apprentice has served his or her master or mistress for one year continuously.

Second—The wife or widow of person whose last legal settlement was in a township or municipal corporation in this state, shall be considered to be legally settled in the same township or municipal corporation. If she has not obtained a legal settlement in this state, she shall be deemed to be legally settled in the place where her last legal settlement was previous to her marriage. (73 v. 233.)

SECTION 3478. Defense of trustees in action for non-support of pauper. In an action to compel the support or relief of a pauper, or in action based upon the refusal of such officers to afford support or relief to any person, it shall be sufficient defense for the township trustees, or proper municipal officers to show that such person, during the period necessary to obtain a legal settlement therein has been supported in whole or in part by others with the intention to thereby make such person a charge upon such township or municipal corporation. The fact that such person, during the period necessary to obtain a legal settlement therein, has been supported in whole or in part by others shall be prima facie evidence of such intention. (93 v. 112.)

SECTION 3479. Settlement of persons. A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months without relief, under the provisions of law for the relief of the poor. When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last had such settlement. (108 v. Pt. I, 272.)

SECTION 3480. Relief, how obtained; notice to trustees and officers. When a person in a township or municipal corporation requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees or officer, in writing, that he is attending such person, and thereupon the township or municipal corporation shall be liable for relief and services thereafter rendered such person, in such amount as such trustees or proper officers determine to be just and reasonable. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered. (33 v. 271.)

SECTION 3481. Proper officers shall visit persons requiring relief. When complaint is made to the township trustees or to the proper officers of the municipal corporation that a person therein requires public relief or support, one or more of such officers, or some other duly authorized person, shall visit the person needing relief, forthwith, to ascertain his name, age, sex, color, nativity, length of residence in the county, previous habits and present condition and in what township and county in this state he is legally settled. The information so ascertained shall be transmitted to the township clerk, or proper officer of the municipal corporation, and recorded on the proper records. No relief or support shall be given to a person without such visitation or investigation, except that within counties, where there is maintained a public charity organization, or other benevolent association, which investigates and keeps a record of facts relating to persons who receive or apply for relief, the infirmaries superintendents, township trustees or officers of a city shall accept such investigation and information and may grant relief upon the approval and recommendation of such organization. Every reasonable effort shall be made by the township trustees and municipal officers to secure aid from relatives and interested organizations before granting relief from public funds. (108 v. Pt. I, 272.)

SECTION 3482. Removal of foreign paupers to their own county. When it has been so ascertained that a person requiring relief has a legal settlement in some other county of the state, such trustees or officers shall immediately notify the infirmaries superintendent of the county in

which the person is found, who, if his health permits, shall immediately remove the person to the infirmary of the county of his legal settlement. If such person refuses to be removed, on the complaint being made by the infirmary superintendent, the probate judge of the county in which the person is found shall issue a warrant for such removal, and the county wherein the legal settlement of the person is, shall pay all expenses of such removal and the necessary charges for relief and in case of death the expense of burial if a written notice is given the county commissioners thereof within twenty days after such legal settlement has been ascertained. (108 v. Pt. I, 273.)

SECTION 3483. Notice to other county; action to recover costs of relief. Upon refusal or failure to pay such expenses, such board of county commissioners may be compelled so to do by a civil action against them by the board of county commissioners of the county from which such person is removed, in the court of common pleas of the county to which such removal is made. If such notice is not given within twenty days after such board of county commissioners ascertain such person's residence, and within ninety days after such relief has been afforded, the board of county commissioners where such person belongs shall not be liable for charges or expenditures accruing prior to such notice. (108 v. Pt. I, 273.)

SECTION 3484. Removal of indigent persons to their own counties. When the trustees of a township in a county in the state in which there is no county infirmary ascertain that any person in such township has a legal settlement in another county of the state, they shall immediately notify the board of county commissioners thereof to remove such person to the infirmary of such county. Should his health permit, such board of county commissioners shall immediately remove such person to their infirmary, and, if within twenty days after such legal settlement is ascertained, a written notice is given them, to pay all expenses theretofore incurred for his relief in the township in which such person is found. Upon their refusal or failure to so remove such person, the trustees of such township may furnish him the necessary relief and collect the amount thereof from such board of county commissioners by a civil action, in the name of such township trustees, in the court of common pleas of the county in which such infirmary is situated. (108 v. Pt. I, 273.)

SECTION 3485. Accounts to be kept by trustees and corporation officers; settlements. The township trustees or proper officers of a municipal corporation shall keep accurate accounts of expenses so incurred, and make entries in a book of the names of the persons, and time when each become chargeable, with an account of their own services rendered. Such account shall be adjusted and settled on the first Mondays of March and September. The clerk of the township or municipality shall record the accounts in the proper records, and issue order on the treasurer thereof for the amount thus paid and services rendered as soon as paid or rendered. Such trustees or proper officers shall issue orders on the treasurer thereof for such demands when they accrue. (93 v. 272.)

SECTION 3486. Annual report to auditor. Immediately after the September settlement the township clerk or proper officer of a municipal corporation shall make and file with the county auditor a report of the administration of the poor laws in the township or municipality for the preceding year, showing all expenditures in that behalf as follows: First, the aggregate of physicians' fees paid; second, the aggregate paid for supplies, food, clothing, etc.; third, aggregate of per diem and expenses of such trustees or municipal officers in connection with the poor laws. (93 v. 272.)

SECTION 3487. Accounts to be certified. No account shall be audited or allowed by the trustees of a township or officers of a municipal corporation for the support of the poor, unless accompanied by the proper voucher, verified by the claimant or his agent, and duly certified by such trustees or officers. (93 v. 273.)

SECTION 3488. Relief in counties having no infirmary. When the trustees of a township in a county having no county infirmary, are satisfied that a person in such township ought to have public relief they shall afford such relief at the expense of their township as in their opinion the necessities of the person require. When more than temporary relief is required, they shall post a notice in three public places in the township, specifying a time and place at which they will receive proposals for the maintenance of such person, which notice shall be posted at least seven days before the day therein named for receiving proposals. (73 v. 233.)

SECTION 3489. Contract for support of person. The township trustees may contract with such person as they think suitable to take charge of and maintain such person, which shall be on the most reasonable terms, but not for more than one year at any one time. If the legal settlement of such person is not within this state, or is unknown, they shall keep an accurate account of moneys so expended, and certify it, with the vouchers therefor, to the county commissioners, who shall cause the amounts so paid to be refunded to such township from the county treasury, on the warrant of the county auditor. (73 v. 233.)

SECTION 3490. Medical relief of poor in township or corporations. The trustees of a township, or the proper officers of a municipal corporation in any county may contract with one or more competent physicians to furnish medical relief and medicines necessary for the persons who come under their charge under the poor laws, but no contract shall extend beyond one year. Such physician shall report quarterly to the clerk of the township or municipality, on blanks furnished him for that purpose, the names of all persons to whom he furnished medical relief or medicines, the number of visits made in attending such person, the character of the disease, and such other information as may be required by such trustees or officers. (93 v. 273.)

SECTION 3491. To whom contract shall be awarded. Such contracts shall be given to the lowest competent bidder. The trustees or municipal officers shall reserve the right to reject any and all bids, and to annul such contract at any time for proper cause. (93 v. 273.)

SECTION 3492. Liability of trustees after contract has been entered into. When the township trustees or the officers of a municipal corporation enter into such contract, such township or municipality shall not be liable for any relief thereafter otherwise furnished such person, so long as such contract remains in force. (108 v. Pt. I, 274.)

SECTION 3493. Performance of labor by recipient of public relief. When public relief, not in a county or city infirmary is applied for, or afforded by the infirmary officials of any county or the trustees of a township or officers of a municipal corporation, and the applicant or recipient is able to do manual labor, such officers shall require a male applicant or recipient to perform labor to the value of the relief afforded, at any time, upon any free public park, public highway, or other public property or public contract therein, under the direction of the proper authorities having charge or control thereof. If relief has been afforded and such recipient refuses to perform the labor provided, record of the fact shall be made, all relief or support thereafter refused him, and he may be proceeded against as a vagrant. (108 v. Pt. I, 274.)

SECTION 3494. When trustees and commissioners shall control pauper's property. The commissioners of counties having no infirmary, the trustees of a township or the proper officer of a municipal corporation therein, shall have and may exercise the same rights, powers, and duties with reference to the property of persons coming under their charge under the poor laws of the state, as are conferred upon and exercised by infirmary officials in counties having infirmaries. (108 v. Pt. I, 274.)

SECTION 3495. Burial of dead, in certain cases. When the dead body of a person is found in a township or municipal corporation, and such person was not an inmate of a penal reformatory, benevolent or charitable institution, in this state, and whose body is not claimed by any person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of section 9984, it shall be disposed of as follows: If he were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death; if he had a legal residence in any other county of the state at the time of his death, the infirmary superintendent of the county in which his dead body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death, but if he had no legal residence in the state, or his legal residence is unknown, such infirmary superintendent shall cause him to be buried at the expense of the county.

It shall be the duty of such officials to provide at the grave of such person, a stone or concrete marker on which shall be inscribed the name and age of such person, if known, and the date of his death. (108 v. Pt. I, 274.)

SECTION 3496. Pauper dying in benevolent institution; burial of by county. In a county in which is located a state benevolent institution, the board in control of said institution shall pay all expenses of the burial of a pauper that dies in such institution, except when the body is deliv-

ered in accordance with the provisions of section 9984 of the General Code, and send an itemized bill of expenses thereof to the county commissioners of the county from which the pauper was sent to the institution. Such county commissioners shall immediately pay the bill to such board in control. (103 v. 58.)

WATER SUPPLY FOR PUBLIC INSTITUTIONS

SECTION 3963. Water supply free for certain purposes. No charge shall be made by a city or village, or by the waterworks department thereof, for supplying water for extinguishing fire, cleaning fire apparatus, or for furnishing or supplying connections with fire hydrants, and keeping them in repair for fire department purposes, the cleaning of market houses, the use of any public building belonging to the corporation, or any hospital, asylum, or other charitable institutions, devoted to the relief of the poor, aged, infirm, or destitute persons, or orphans or delinquent children, or for the use of the public school buildings in such city or village.

School district not wholly within municipality. But in any case where the school district, or districts, include territory not within the boundaries of the city or village, a proportionate charge for water service shall be made in the ratio which such tax valuation of the property outside the city or village bears to the tax valuation of all the property within such school district, subject to the rules and regulations of the waterworks department of the municipality governing, controlling, and regulating the use of water consumed. (108 v. Pt. II, 1160.)

CHILDREN'S HOMES

(MUNICIPAL)

See Sections 3085-3105 G. C., for County Homes

SECTION 4083. Powers of trustees and managers. In cities where children's homes or industrial schools are established under the incorporation law of the state, the trustees and managers of such institution may take under their guardianship all children placed under their care and management in either of the following modes:

First. Children under sixteen years of age, who are voluntarily surrendered by the father and mother or in case of death, or long continued or wilful absence of the father, by the mother, or by their guardians, to the care of such trustees and managers, they being by virtue of such surrender invested with the same power over the persons of the children as the parents or guardians.

Second. Children under sixteen years of age who are committed to their care by the juvenile court. (103 v. 895.)

SECTION 4084. May act as guardian of children, and procure them homes. The trustees and managers shall have the guardianship of such children during their minority, and, when it seems proper, may place them in suitable homes, having scrupulous regard as to the religious and moral character of the persons with whom such children are placed, in

order to secure to them the benefits of good example and wholesome instruction, and the opportunity of becoming intelligent and useful men and women. (63 v. 51.)

SECTION 4085. May indenture children. The trustees and managers shall require an agreement to be entered into, that each and every child so placed shall be furnished with good and sufficient food and clothing and a suitable common school education. Such agreement shall be in a form to be prescribed by the board of state charities. (103 v. 895.)

SECTION 4086. What records shall be kept. Such trustees and managers shall provide themselves with records, in which shall be entered the age, parentage, place of residence, and present condition of every child received in any such children's home or industrial school. They shall also cause to be entered in such records the time when, the place where, and the person to whom any of the inmates of such children's home or industrial school have been placed for suitable homes, together with a substantial statement of any contract made between such trustees and managers and the persons receiving such child. (103 v. 895.)

SECTION 4087. Cancellation of contract. If a person so taking charge of a child, desires to be released from the contract, the trustees and managers, upon application, may cancel it, and resume the charge and management of the child, and shall have the same power and authority over him as before the agreement was made. (103 v. 895.)

SECTION 4088. Removal of children from unsuitable homes. The trustees and managers may remove a child from a home when, in their judgment, it has become an unsuitable one. In such cases, they shall resume the same power and authority as they originally possessed, but they may return the child to parents or a surviving parent or guardian, or when they believe the child to be capable of caring and providing for himself, may discharge him to his own care. They shall have the same power respecting such children and be subject to the same obligations as provided in the case of county children's homes by sections 3098, 3099, 3100, 3101, 3102, and 3103 of the General Code. (103 v. 895.)

COUNTY HOMES

(INFIRMARIES)

(See Sections 2419-3; 2522-2572)

SECTION 4089. Management and control. The management of the affairs of corporation infirmaries and the care of the inmates thereof, the erection and enlargement of infirmary buildings and additions thereto, the repair and furnishing thereof, the improvement of the grounds therewith connected, and the granting of outdoor relief to the poor, shall be vested in the director of public safety. (80 v. 46.)

SECTION 4090. Location of infirmary or pest house. The infirmary, or the pest house of the corporation may be located either within or outside of the corporation limits, and the council may purchase and hold the necessary real estate on which to build them. (72 v. 76.)

SECTION 4091. Regulations applicable to hospitals shall govern. In the management of an infirmary, in the care and treatment of the in-

mates thereof, and in the erection, enlargement, or repair of any building for infirmary purposes, or of any addition thereto, the director of public safety shall have the same powers, be governed by the same regulations, and perform the same duties, as far as applicable, as are vested in him in relation to municipal hospitals. The power of the council in relation thereto, shall be the same, so far as applicable, as herein provided in relation to hospitals. (66 v. 200.)

SECTION 4092. Care for the inmates; separation of sexes. Such directors shall see that the inmates of such infirmary are comfortably provided for and kindly treated, and, whenever deemed necessary, he may provide for the care and the support of the males and females in separate buildings, or in separate departments of the same building. (66 v. 200.)

SECTION 4093. Appointment of overseers of the poor. Council shall provide by ordinance for the appointment by the director of public safety of such number of persons as is deemed necessary, not to exceed one in each ward, to act as overseers of the poor. The director shall prescribe their duties as to the care of the poor, and their removal, when necessary, to the infirmary, but such persons shall receive no compensation for their services. (77 v. 16.)

SECTION 4094. Duties in case of partial relief. Upon complaint being made or information given to such director, that a person residing in the city requires public assistance or support, the director shall inquire into the condition and necessities of such person, and if satisfied that relief ought to be granted at public expense, and that the person requires temporary or partial relief only, and that for any case it would not be prudent to remove him to the city infirmary, the director may afford relief, at the expense of the city, without such removal. The director of public safety has the same power of removing paupers settled in some other county in this state which, by law, is conferred on county infirmary directors. (73 v. 233.)

SECTION 4095. Duties of director in case of no legal settlement. When an infirmary is erected and established in a city for the accommodation of its poor, the director of public safety shall not require the directors of the county infirmary of the county in which such city is situated, to receive and provide for persons having no legal settlement within this state or whose place of residence is unknown, or to charge the commissioners of the county with the expense of providing for such persons in the city infirmary, but he shall furnish relief and support to such persons in the city infirmary, applying therefor, the same as county infirmary directors are required to do, and have like power of removing such persons as county infirmary directors have to such other city or county infirmary where such pauper's legal settlement is. The provisions of this section shall only apply to counties in which there is a county and a city infirmary. (73 v. 233.)

SECTION 4096. When there are orphan asylums in cities. In cities in which orphan asylums are established by law, or as private institutions the director of public safety may make such arrangements with the trustees or the person having charge of such asylums, for the support

and education of all orphans or other children coming under his control by virtue of the laws in force at such time, as he deems proper, and shall allow such compensation as is reasonable and just, to be paid from the poor fund of the city. (51 v. 412.)

WORKHOUSES

SECTION 4128. Cost of maintenance of workhouse prisoners. When a person over sixteen years of age is convicted of an offense under the law of the state or an ordinance of a municipal corporation, and the tribunal before which the conviction is had is authorized by law to commit the offender to the county jail or corporation prison, the court, mayor, or justice of the peace, as the case may be, may sentence the offender to the workhouse, if there is such house in the county. When a commitment is made from a city, village, or township in the county, other than in the municipality having such workhouse, the council of such city or village, or the trustees of such township, shall transmit with the mittimus a sum of money equal to not less than seventy cents per day for the time of the commitment, to be placed in the hands of the superintendent of the workhouse for the care and maintenance of the prisoner. (110 v. 12.)

SECTION 4129. Labor of workhouse prisoners. A person so sentenced shall be received into such workhouse, and shall be kept and confined at labor therein, or if such labor cannot be furnished therein, such person may be employed at labor elsewhere when such employment is authorized by ordinance, and shall be subject to the rules, regulations and discipline thereof, until the expiration of his sentence, when he shall be discharged. No person committed or held in default of the payment of a fine, penalty, or costs of a prosecution, shall be released under the laws providing for the relief of insolvent debtors. (110 v. 12.)

SECTION 4130. Cumulative sentence. Every person who, after having been convicted, sentenced and imprisoned, in any workhouse for an offense committed in this state in violation of an ordinance of a municipality, or law of the state, is convicted of a second misdemeanor whether committed in violation of an ordinance of a municipality, or a law of the state, punishable by imprisonment in any workhouse within this state, shall for such second offense, be punished by imprisonment for not less than double the penalty imposed for the first offense, and in case of two previous convictions for such misdemeanors, the penalty for a third misdemeanor shall not be less than double the penalty imposed in the last of such previous misdemeanors. But no greater punishment shall be inflicted for the second or third misdemeanor, than the maximum penalty provided by law or ordinance for the particular offense committed. (92 v. 359.)

SECTION 4131. Habitual offender. Every person who, after having been three times convicted, sentenced and imprisoned in any workhouse or workhouses for offenses committed in this state, whether in violation of law or ordinance, shall be convicted of a fourth misdemeanor, whether committed in violation of an ordinance of a municipality or law of the state, punishable by imprisonment in any workhouse within the state, shall, upon conviction for such offense be held and deemed to be an habitual

offender and shall be imprisoned in a workhouse for a period of not less than one year nor more than three years. In all such cases the court may order that the offender stand committed to such workhouse until the costs of prosecution are paid. The fact of former convictions shall be charged in the information or complaint and, if proved, shall be stated in the commitment. A pardon for a former offense granted on the grounds of innocence shall operate as a full defense in any charge under this section of a prior conviction for such offense. (92 v. 359.)

SECTION 4132. **Prompt commitment; fees.** The officer having the execution of the final sentence of a court, magistrate, or mayor, shall cause the convict to be conveyed to the workhouse as soon as practicable after the sentence is pronounced; and all officers shall be paid the fees therefor allowed by law for similar services in other cases. Such fees shall be paid, when the sentence is by the court, from the county treasury, and when by the magistrate, from the township treasury. (66 v. 196.)

SECTION 4133. **Discharge and record thereof.** An officer vested by statute with authority to manage a workhouse, may discharge, for good and sufficient cause, a person committed thereto. A record of all such discharges shall be kept and reported to the council, in the annual report of the officer, with a brief statement of the reasons therefor. (97 v. 488.)

SECTION 4134. **Parole of inmates.** Such officer also may establish rules and regulations under which, and specify the conditions on which, a prisoner may be allowed to go upon parole outside of buildings and enclosures. While on parole such person shall remain in the legal custody and under the control of the officer, and subject at any time to be taken back within the enclosure of the institution. Full power to enforce the rules, regulations and conditions, and to retake and reimprison any convict so upon parole, is hereby conferred upon such officer, whose written order shall be sufficient warrant for all officers named therein to authorize them to return to actual custody any conditionally released or paroled prisoner. All such officers shall execute such order the same as ordinary criminal process. (97 v. 488.)

SECTION 4135. **Violation of parole.** Such officer may employ or authorize any person or persons to see that the conditions of a parole are not violated, and in case of violation to return to the workhouse any prisoner so violating his parole, and the time between the violation of the conditions of such parole, or conditional release by whatever name, as entered by order of the officer on the records of the workhouse, and the reimprisonment or return of the prisoner, shall not be counted as any part or portion of time served under his sentence. (97 v. 488.)

SECTION 4136. **Return of paroled to custody.** Any prisoner at large upon parole who fails to return to the actual custody of the workhouse as specified as one of the conditions of his parole, or commits a fresh crime and is convicted thereof, shall be, on the order of the officer, treated as an escaped prisoner and subject to the penalties named in section twelve thousand eight hundred and forty. But no parole shall be granted by any such officer without previous notice thereof to the trial judge. (97 v. 488.)

SECTION 4137. Officers to have police powers. The superintendent, assistant superintendent, and each guard of the workhouse shall have such powers of policeman as may be necessary for the proper performance of the duties of his position. (66 v. 196.)

SECTION 4138. Infants received where there is no house of refuge. The council of a corporation owning a workhouse, but not owning a house of refuge and correction, may provide for receiving infants into such workhouse, in the manner herein prescribed for receiving infants into house of refuge. The director of the workhouse may make such rules and regulations in regard to admission of infants, and their management as are provided in such houses of refuge. (66 v. 196.)

SECTION 4139. Commissioners may unite with city erecting workhouse. The commissioners of a county may unite with any municipality located in such county in the acquirement or erection, management and maintenance of a workhouse for the joint use of such county and municipality, upon such terms as they may agree, and the commissioners may levy and collect the necessary funds therefor from the taxable property of the county. (97 v. 448.)

SECTION 4139-1. County or city may withdraw from joint workhouse. That in any county wherein there has been heretofore constructed and maintained a joint city and county workhouse, either the municipality or the county be and they are hereby authorized and empowered to withdraw therefrom, and either such municipality or such county may decline to further participate in the expense of maintaining such institution, and either such municipality or such county may sell, in accordance with the sections of the General Code in such cases made and provided, its interest in such joint institutions; and in the event of a sale thereof by such municipality, the proceeds thereof shall be used in the payment of such indebtedness as may have been incurred in behalf of such municipality in the management, control, and operation of such workhouse, and the balance thereof, if any remaining, shall be placed in the general fund of such municipality. In the event of such sale by any county, the proceeds of such sale shall be used in the payment of such indebtedness as may have been incurred in behalf of such county in the management, control, and operation of such workhouse, and the balance thereof, if any remaining, shall be placed in the general fund of such county. (108 v. Pt. II, 1232.)

SECTION 4140. Powers of board of directors. In cities, such workhouse shall be managed and controlled by a joint board composed of the county commissioners and the board of control of the city, and in villages by the county commissioners and the board of trustees of public affairs. Such joint board shall have all the powers and duties in the management, control and maintenance of such workhouse as are conferred upon the director of public safety in cities, and in addition thereto the joint board may construct sewers for such workhouse and pay therefor from funds raised by taxation for the maintenance of such institution. The board may lease or purchase suitable property and buildings for a workhouse, or real estate for the purpose of erecting and maintaining a workhouse thereon, but it shall not expend more than ten thousand

dollars for any such purpose unless the amount be approved by a majority of the voters of the county, exclusive of the municipality voting a general election. (68 v. 114.)

SECTION 4141. Workhouse prisoners from other counties. Any city or district having a workhouse, may receive as inmates thereof persons sentenced or committed thereto, as provided by law, from counties other than the one in which such workhouse is situated, upon such terms and during such length of time as agreed upon by the commissioners of such counties, or by the council of such municipality, and the council of the city, or the board of the district workhouse, or other authority having the management and control of such workhouse. Convicts so received shall in all respects be and remain under control of such director or board of workhouse directors, and subject to the rules, regulations and discipline of such workhouse, the same as other convicts therein detained. (110 v. 13.)

SECTION 4142. Commissioners of county may unite in erecting a workhouse; submitted to electors. The commissioners of any counties may unite in the erection, management, and maintenance of a workhouse for the joint use of such counties, but before such workhouse can be established the question of the establishment thereof shall be first submitted to the qualified electors of each such county at a general election and a majority of the qualified electors voting upon the proposition in each county shall have voted in favor thereof. Notice of the submission of the question of building a workhouse shall be published for four weeks prior to such election in a newspaper of general circulation in each county interested. (80 v. 81.)

SECTION 4143. Board of directors. The construction, management and control of a workhouse established under the preceding section, and the maintenance and care of the convicts therein, shall be vested in a board of directors, who shall be called the board of workhouse directors, and shall be composed of two persons from each county composing the district, who are electors of the county from which they are appointed, and are free-holders therein, to be appointed by the board of county commissioners of such county who shall belong to different political parties, one of whom shall hold his office for a term of six years, and one for the term of three years. At the first meeting in May, and annually thereafter, the board shall elect a president, and appoint a secretary, who shall make a complete record of all proceedings, and such other officers as may be necessary, and fix the tax compensation of their services. The board of directors shall not be entitled to any compensation for their services, but shall have paid all legitimate expenses connected with their duties. (90 v. 193.)

SECTION 4144. Board to determine location and estimate of cost. When a board of workhouse directors have complied with the requirements of the preceding section, they shall proceed to determine the location of the workhouse, and make an estimate of the cost thereof, including the cost of purchasing grounds for location which, together with all other transactions of the board, shall be recorded by the secre-

tary, in a book to be kept for that purpose, which record shall be approved by the board and countersigned by the president, and shall be open at all times to the inspection of any resident of the district. (80 v. 82.)

SECTION 4145. Certificate of estimates to commissioners. After the selection of a location and the approval of estimates as to the cost of purchasing a site and the construction of necessary buildings and appliances for the workhouse, the board shall certify over the seal of the president and secretary, to each of the boards of county commissioners within the district, the full amount of the estimated cost of location, construction, and maintenance of the workhouse for one year from the first regular meeting in May next succeeding this certification. (80 v. 82.)

SECTION 4146. Levy therefor; bonds may be issued. Thereupon each board of county commissioners shall levy upon the general duplicate of the county in which they are commissioners, a tax equal to such county's proportion of the entire estimated costs, in the proportion of such county's valuation in the general duplicate to the aggregate valuation of all the counties joining in the formation of the board and district. After the levies are made by each of the county board of commissioners, each of such boards may anticipate the levies by the issuing of bonds, as provided for the purpose of a site for a court house. (80 v. 82.)

SECTION 4147. How money shall be distributed. The avails arising from the sale of the bonds shall be paid to the treasurer of the board of workhouse directors, after the treasurer has filed with the board a bond, approved by the board, in double the amount of the estimated expense of construction and maintenance of the workhouse. All payments for construction, maintenance, or any other purpose or expense, whatever, shall be paid by the treasurer, when such bills have been approved by a majority of the board at any regular or adjourned meeting and when a voucher therefor is issued by the secretary and countersigned by the president of the board. (80 v. 82.)

SECTION 4148. How cost of maintenance provided. The cost of maintaining a workhouse so established over and above the proceeds arising from the sale of the products thereof shall be paid by each of the counties comprising the district in proportion to the number of inmates furnished such workhouse by each county, to the aggregate number furnished by all, and such expense shall be paid quarterly by each of the boards of county commissioners, upon the certificate of the secretary of the board of workhouse directors, approved by the board and countersigned by the president. (80 v. 82.)

SECTION 4149. Levy of taxes therefor. For such maintenance, such board of county commissioners may levy a tax upon the general duplicate of the county, under the provisions of law authorizing levies for county purposes, such a sum as may be necessary, but not to exceed one-tenth of one mill. (80 v. 82.)

SECTION 4150. Directors may enlarge buildings or grounds; may admit other counties. The board of workhouse directors may enlarge or improve the buildings, shops or grounds from any surplus that may arise from the sale of the products or from the levy for maintenance made by the counties forming the district, but no levy for maintenance shall be made when it has not been necessary to use more than one-half of the avails of the levy of the year preceding. Any surplus arising from the carrying on of the district workhouse shall be returned to the general fund of each of the counties comprising the district, in the proportion to the number of inmates furnished by each of such counties comprising the district, in the proportion to the number of inmates furnished by each of such counties to the whole number furnished by the district for the current year. The directors may receive any other county into the district upon such terms and conditions as the board may determine, and when a county is thus admitted it shall be entitled to a member of the board as herein provided. (80 v. 83.)

SECTION 4151. Who may be sentenced to such workhouse. When a person has been convicted of a misdemeanor by a court or magistrate in a district in which there is a workhouse, such court or magistrate may sentence such person to such workhouse for a period not exceeding the maximum period of confinement in the jail of the county provided by statute for such offenses. In all such cases the court or magistrate may further order that such person stand committed to such workhouse until the costs of prosecution are paid, or he be discharged as herein provided. In all cases where a fine may be imposed in punishment in whole or in part for an offense and the court or magistrate could order that such person stand committed to the jail of the county until such fine and the costs of prosecution are paid the court, or magistrate may order that such person stand committed to the workhouse until such fine and costs are paid, or until he be discharged at the rate of sixty cents per day for each day of confinement, or be otherwise legally discharged. (80 v. 83.)

SECTION 4152. Proceeding on such sentence. When a person is sentenced to such workhouse by the court of common pleas, the clerk shall make and deliver to the sheriff a certified copy of the docket and journal entries showing the crime charged and the sentence of the court, which shall be delivered by the sheriff to the proper officer in charge of the workhouse, and shall be his warrant for detaining such person in custody therein. In cases of such convictions by any other court or magistrate such court or magistrate shall make a certified transcript of the docket in the case, which shall in like manner be delivered to the marshal or constable, or sheriff by the court or magistrate, which shall be delivered by the officer to the proper officer in charge of the workhouse, and shall be his warrant for detaining the person in custody therein. In all cases of sentence to such workhouse, the person so sentenced may be confined in the jail of the county for such period as may be reasonably necessary for the officer to procure the papers and make arrangements to transport him to the workhouse. (80 v. 83.)

SECTION 4153. Religious services in prison or workhouses. Each administrative board or other authority in the state having charge or

control of a city prison or workhouse shall provide for holding religious services therein on each Sunday, and may employ a clergyman or religious organization to conduct such services. Any expense so incurred by such board or authority shall be paid from the general fund of the city. (99 v. 225.)

QUARANTINE

SECTION 4436. Maintenance of person confined in quarantined house. When a house or other place is quarantined on account of contagious diseases, the board of health having jurisdiction shall provide for all persons confined in such house or place, food, fuel and all other necessities of life, including medical attendance, medicine and nurses when necessary. The expenses so incurred, except those for disinfection, quarantine or other measures strictly for the protection of the public health, when properly certified by the president and clerk of the board of health, or health officer where there is no board of health, shall be paid by the person or persons quarantined, when able to make such payment, and when not, by the municipality or townships in which quarantined. (108 v. Pt. I, 249.)

CONTAGIOUS DISEASES

SECTION 4441. Admission of person suffering from contagious disease to certain institutions. No person suffering from, who has been exposed to, or is liable to become ill of, small-pox or other contagious disease or infectious disease may be sent to or admitted into a prison, jail, workhouse, infirmary, children's or orphans' home, state hospital or institution for the insane, epileptic, blind, feeble-minded or deaf and dumb or other state or county benevolent institution without first making known the facts concerning such illness or exposure to the superintendent, or other person in charge thereof. When small-pox or other dangerous, contagious or infectious disease is in a jail or prison and a prisoner therein exposed to such disease is sentenced to the penitentiary, such prisoner shall be confined and isolated in such jail or prison or other proper place, upon the order of the proper court, for such time as is necessary to establish the fact that he has not contracted such disease. (95 v. 431.)

SECTION 4442. Contagious disease in public institution. When small-pox, cholera, yellow fever, diphtheria, scarlet fever or other dangerous, contagious or infectious disease appears in any state, county or municipal, benevolent, correctional or penal institution, the superintendent or manager thereof shall at once isolate the person or persons so affected and enforce the provisions of this chapter for the prevention of contagious diseases, so far as they may apply, and the rules, regulations and orders of the state board of health to that effect. (95 v. 431.)

SECTION 4443. Temporary buildings. The trustees or managers of any such institution may erect any necessary temporary building for

the reception of such affected persons or for the detention of persons exposed to such diseases and may remove such persons to and confine them in such buildings. (95 v. 431.)

SECTION 4444. Removal of affected or exposed persons to hospital. Such trustees or managers may contract for the care, treatment or detention of any such persons with any corporation having a hospital or other proper place for the isolation or care of persons suffering from or exposed to contagious disease and may remove such persons to such hospital or place. In case of persons detained in an institution as punishment for crime, an order for such removal shall be obtained from the court which imposed such punishment. In an order for such removal, the court may require such provisions to be made for safely guarding the prisoner while in such hospital or place as it deems necessary. (95 v. 431.)

TAXATION, PROPERTY EXEMPT FROM

SECTION 5349. Public Institutions. Public school houses and houses used exclusively for public worship, the books and furniture therein and the ground attached to such buildings necessary for the proper occupancy, use and enjoyment thereof, and not leased or otherwise used with a view to profit, public colleges and academies and all buildings connected therewith, and all lands connected with public institutions of learning, not used with a view to profit, shall be exempt from taxation. This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state, but leaseholds, or other estates or property, real or personal, the rents, issues, profits and income of which is given to a city, village, school district, or subdistrict in this state, exclusively for the use, endowment or support of schools for the free education of youth without charge, shall be exempt from taxation as long as such property, or the rents, issues, profits or income thereof is used and exclusively applied for the support of free education by such city, village, district or subdistrict. (99 v. 449.)

SECTION 5351. State or U. S. property. Real or personal property belonging exclusively to the state or United States shall be exempt from taxation. (R. S. Sec. 2732.)

SECTION 5352. Courthouses, jails, etc. Buildings belonging to counties and used for holding courts, and for jails or county offices, with the grounds, not exceeding ten acres in any county, on which such buildings are erected, shall be exempt from taxation. (99 v. 449.)

SECTION 5353. Lands, etc., for support of poor exempt. Lands, houses and other buildings belonging to a county, township, city or village, used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision thereof for public purposes, and property belonging to institutions of public charity only, shall be exempt from taxation. (103 v. 548.)

SECTION 5353-1. Property used for support of children's home exempt. Property, real or personal, and mixed, the net income of which

is used solely for the support of institutions used exclusively for children's homes for poor children, the real estate on which said institutions are located, and the buildings connected therewith, shall be exempt from taxation. (106 v. 179.)

TAX LEVY FOR SUPPORT OF COUNTY INSTITUTIONS

SECTION 5627. Commissioners to determine annually amount to be levied, etc. The county commissioners, at their March or June session annually shall determine the amount to be raised for ordinary public buildings, the support of the poor, interest and principle of public debt, and for road and bridge purposes. They shall specifically set forth in the record of their proceedings the amount to be raised for each of such purpose. (56 v. 175.)

SECTION 5629. Special levy for certain buildings if destroyed. If a county infirmary building or children's home building, built or in process of construction, is wholly or partly destroyed by fire, or other casualty, and such county is without sufficient funds applicable to the purpose with which to build or repair such building, the commissioners thereof, at a regular or called session, may levy a tax that will produce the sum required for such purpose, not exceeding, in any case, ten thousand dollars. If the commissioners deem it advisable, they may anticipate the collection of such special tax by borrowing not exceeding the amount so levied, at a rate of interest not exceeding seven per cent. per annum, payable semi-annually, and may issue notes or bonds therefor, payable when the tax is collected. (99 v. 308.)

SECTION 5629-1. Tax levy for repair of public buildings. If any public building in any county, township or municipality in this state, erected from funds raised by general taxation, be condemned, by the proper officials, as unsanitary or unfit for the purposes for which it was erected, and such county, township, or municipality, is without the necessary funds to make said building sanitary and fit for the purposes for which it was built, the proper officials of said county, township or municipality, at a regular or called meeting, shall levy a tax that will produce the sum required to remedy the defects in said building, not to exceed in any case five thousand dollars. Provided, however, such tax shall be subject to all limitations upon interior rate, aggregate amount, maximum rate and combined maximum rate provided by law. If the officials deem it advisable they may anticipate the collection of such special tax by borrowing not exceeding the amount so levied at a rate of interest not exceeding six per cent., payable semi-annually, and may issue notes or bonds therefor, payable when the tax is collected. (103 v. 488.)

SECTION 5630. Annual levy for county purposes. The commissioners of any county, at their June session, annually, may levy not to exceed three mills on each dollar valuation of taxable property within the county for county purposes other than for roads, bridges, county buildings, sites therefor, and the purchase of lands for infirmary purposes. For the purpose of building county buildings, purchasing sites therefor,

and lands for infirmary purposes, they may levy not to exceed two mills on such valuation. (97 v. 308.)

SECTION 5630-1. Assessment bonds, obligation of county. Bonds, notes or certificates of indebtedness issued by county commissioners in the manner provided by law in anticipation of the collection of special assessments levied or to be levied against the property abutting upon a proposed improvement or to be benefited thereby, or in anticipation of the collection of taxes upon the taxable property of any township, or townships, of the said county within which such improvement is to be made, shall be full, general obligations of such county, for the payment of the principal and interest of which, when due, the full faith, credit and revenues of such county shall be pledged. (110 v. 459.)

SECTION 5631. Commissioners may levy tax for hospital for insane. The commissioners of any county owning, or wholly or partly maintaining, a hospital for the care of the insane, at the June session, annually, may levy a tax, not exceeding three-tenths of one mill, on the taxable property of such county, for the support of such hospital, the payment for lands purchased or acquired for the use thereof, and for enlargements, additions, or other improvements thereto. (97 v. 73.)

SECTION 5632. Commissioners may borrow money for the same. The commissioners of any county owning, or wholly or partly maintaining, a hospital for the care of the insane, may borrow money, not exceeding one hundred and fifty thousand dollars, for enlarging, changing or adding to such hospital, or making other improvements which the trustees or directors in charge thereof decide to be necessary. (97 v. 74.)

SECTION 5633. May issue bonds therefor. The county commissioners, making such loan, may issue the bonds of such county payable in not more than fifty years and redeemable after twenty-five years from their date with interest, evidenced by coupons, not exceeding five per cent, payable semi-annually. Such bonds shall be known as "county insane hospital improvement bonds," shall be signed by the commissioners and countersigned by the auditor. The commissioners from time to time, upon request of such directors or trustees, shall sell so many of such bonds as are required for the purposes of their issue, and deposit the proceeds thereof with the treasurer of the county to the credit of the hospital. In selling bonds the commissioners shall be governed by the general provisions of law applicable to the sale of bonds. (97 v. 74.)

SECTION 5634. Tax levy for same. The county commissioners, annually, at the June session, shall levy the amount of taxes required to pay the interest on such bonds and create a sinking fund for the redemption thereof at maturity. All taxes levied and collected under this section shall be applied exclusively to the purposes for which they were issued. (97 v. 74.)

SECTION 5638. Powers of county commissioners limited. The county commissioners shall not levy a tax, appropriate money or issue bonds for the purpose of building county buildings, purchasing sites therefor, or for land for infirmary purposes, the expenses of which will

exceed \$15,000.00, except in case of casualty, and as hereinafter provided; or for building a county bridge, the expense of which will exceed \$18,000.00, except in case of casualty, and as hereinafter provided; or enlarge, repair, improve or rebuild a public county building, the entire cost of which expenditure will exceed \$10,000.00; without first submitting to the voters of the county the question as to the policy of making such expenditure. (74 v. 92.)

SECTION 5639-1. Submission of question to vote after passage of resolution. When the board of county commissioners desires to submit such question to the voters of the county, it shall pass and enter upon its minutes a resolution declaring the necessity of such expenditure, fixing the amount of bonds to be issued, if any, in connection therewith, and fixing the date upon which the question of making any such expenditure shall be so submitted, and shall cause a copy of such resolution to be certified to the deputy state supervisors of elections of the county; and thereupon the deputy state supervisors shall prepare the ballot and make other necessary arrangements for the submission of the question to the voters of the county at the time fixed in such resolution.

The election shall be held at the regular places for voting in such county and shall be conducted, canvassed, and certified in the same manner, except as otherwise provided by law, as for the election of county officers. The county commissioners shall give fifteen days' notice of the submission of any such question by publication in at least two newspapers of opposite politics having a general circulation in said county, which notice shall be published once a week for two consecutive weeks, and shall state the amount of such proposed expenditure, the amount of the bonds, if any, to be issued in connection with, the purpose for which such expenditure is to be made, and the time of holding such election. (106 v. 16.)

SECTION 5642-1. Majority vote. If a majority of the votes so cast are against the proposed expenditure the board of county commissioners shall not assess a tax or issue bonds therefor. If a majority of the votes cast are in favor of the proposed expenditure, the board of county commissioners shall proceed to issue bonds in any sum not exceeding the amount stated upon said ballots, the proceeds of which shall be used exclusively for the purpose stated upon said ballots, and said board shall levy such amount of tax as may be necessary to pay the interest accruing on said bonds and to redeem them at maturity. (102 v. 447.)

TOWNSHIP TAXES

SECTION 5646. Township tax, when and how made. The trustees of each township, on or before the fifteenth day of May, annually, shall determine the amount of taxes necessary for all township purposes, and certify it to the county auditor. The county auditor shall levy, annually, for township purposes, including the relief of the poor, but not including the support of common schools or the payment of the interest and principal of the debts of the township, such rates of taxes as the trustees of the respective townships certify to him to be necessary, not exceeding

one mill on each dollar of the taxable valuation of the property of the township, which does not exceed two hundred thousand dollars, eight-tenths of one mill on each dollar of such taxable valuation exceeding two hundred thousand dollars, and not exceeding three hundred thousand dollars, one-half of one mill on each dollar of such taxable valuation exceeding three hundred thousand dollars, and not exceeding five hundred thousand dollars, four-tenths of a mill on each dollar of such taxable valuation exceeding five hundred thousand dollars, and not exceeding eight hundred thousand dollars, one-fourth of one mill on each dollar of such taxable valuation exceeding eight hundred thousand dollars, and for the payment of the interest and principal of the debts of the township, such sum as the trustees may determine is necessary for that purpose. (76 v. 21.)

SECTION 5647. Tax for "poor relief." In counties where there are no county infirmaries, a township tax in addition to the tax provided in the next preceding section, and not to exceed one mill and five-tenths of a mill on each dollar of the taxable property of the township, may be levied for the relief of the poor, to be applied solely to that purpose. (76 v. 21.)

SECTION 5648. Township liabilities for the relief of the poor. The trustees of any township which incurs liabilities for the relief of the poor, beyond the amount raised by the levy authorized by law, may make an additional levy, for the purpose of discharging such liabilities, not exceeding six-tenths of one mill on the dollar of the taxable property of such township. (74 v. 92.)

CONVICT-MADE GOODS

SECTION 6213. Brand, etc., to be placed upon convict-made goods. Goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in this or any other state in which convict labor is employed and imported, brought or introduced into this state, shall be branded, labeled or marked as hereinafter provided before being exposed for sale, and shall not be so exposed without such brand, label or mark. (90 v. 319.)

SECTION 6214. Contents, style and use of brand, etc. The brand, label or mark required by the next preceding section shall contain at the head or top thereof the words "convict made" followed by the year and name of the penitentiary, prison, reformatory or other establishment in which it was made, in plain English lettering of the style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, and when such branding or marking is impossible a label shall be used. (90 v. 320.)

SECTION 6215. Label. Such label shall be in the form of a paper tag to be attached by wire to each article, where the nature thereof will permit, and placed securely upon the box, crate or other covering in which such goods, wares and merchandise are packed, shipped or exposed for sale. (90 v. 320.)

SECTION 6216. Where placed. Such brand, mark or label shall be placed outside of and upon the most conspicuous part of the finished article and its box, crate or covering. (90 v. 320.)

SECTION 6217. Violations by dealers in convict-made goods, etc. A person dealing in convict-made goods, wares or merchandise, as described in this chapter, shall not knowingly have them in possession for the purpose of sale, or offering them for sale without the brand, label or mark required by this chapter, or remove, conceal or deface the brand, mark or label thereon. (90 v. 320.)

SECTION 6218. Who to prosecute. When the commissioner of labor statistics has reason to believe that the next preceding section is being violated, he shall advise the attorney-general thereof, giving the information in support of such belief, and the attorney-general shall forthwith institute the proper legal proceedings to compel compliance therewith. (90 v. 320.)

ARTICLE II, SECTION 41. Ohio Constitution. Laws shall be passed providing for the occupation and employment of prisoners sentenced to the several penal institutions and reformatories in the state; and no person in any such penal institution or reformatory while under sentence thereto, shall be required or allowed to work at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work shall be sold, farmed out, contracted or given away: and goods made by persons under sentence to any penal institution or reformatory without the state of Ohio, and such goods made within the state of Ohio, excepting those disposed of to the state or any political sub-division thereof or to any public institution owned, managed or controlled by the state or any political sub-division thereof, shall not be sold within this state unless the same are conspicuously marked "prison made." Nothing herein contained shall be construed to prevent the passage of laws providing that convicts may work for, and that the products of their labor may be disposed of to, the state or any political sub-division thereof, or for or to any public institution owned or managed and controlled by the state or any political sub-division thereof.

LEGAL ADVERTISING

SECTION 6251. Rates for legal advertising. Publishers of newspapers may charge and receive for the publication of advertisements, notices and proclamations required to be published by a public officer of the state, county, city, village, township, school, benevolent or other public institution, or by a trustee, assignee, executor or administrator, the following sums, except where the rate is otherwise fixed by law, to-wit: For the first insertion, one dollar for each square, and for each additional insertion authorized by law or the person ordering the insertion, fifty cents for each square. Fractional squares shall be estimated at a like rate for space occupied. In advertisements containing tabular or rule work fifty per cent may be charged in addition to the foregoing rates. Providing, however, newspapers having a circulation of over twenty-five thousand shall charge and receive for such advertisements,

notices and proclamations, rate charged on annual contracts by them for like amount of space to other advertisers who advertise in its general display advertising columns; and the publisher shall make and file with his bill before its payment, an affidavit, that the newspaper had a bona fide circulation of more than twenty-five thousand at the time the advertisement, notice or proclamation was published, and that the price charged in the bill for same did not exceed the rates herein provided for such advertisement, notice or proclamation. (109 v. 247.)

SECTION 6252. Notices to be published in two newspapers. A proclamation for an election, an order fixing the times of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors and such other advertisements of general interest to the taxpayers as the auditor, treasurer, probate judge or commissioners may deem proper, shall be published in two newspapers of opposite politics at the county seat, if there be such newspapers published thereat. In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notices shall be made in two newspapers of opposite politics in such city. This chapter shall not apply to the publication of notices of delinquent tax and forfeited land sales. (108 v. Pt. I, 34.)

SECTION 6254. What constitutes a square; an em. A square shall be a space occupied by two hundred and forty ems of the type used in printing such advertisements. Legal advertising shall be set up in compact form, without unnecessary spaces, blanks or headlines and printed in type not smaller than nonpareil. The type of whatever size used must be of such proportions that the body of the capital letter M be no wider than it is high and all other letters and characters in proportion. Except as may be done under sections 1695 to 1697 inclusive, of the General Code, all legal advertisements or notices shall be printed in newspapers published in the English language only. (108 v. Pt. I, 475.)

SECTION 6255. Sufficient publication of legal notice defined. Whenever any legal publication is required by law to be made in a newspaper or newspapers published or printed in a municipality, county, or other political subdivision, the newspaper or newspapers used shall have at least one side thereof printed in such municipality, county, or other political subdivision; and whenever any legal publication is required by law to be made in a newspaper or newspapers of general circulation in a municipality, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used, such publication shall be made in a newspaper or newspapers at least one side of which is printed in such municipality, county, or other political subdivision, unless there be no such newspaper or newspapers so printed, in which event, only, such publication shall be made in any newspaper or newspapers of general circulation therein. (106 v. 492.)

MATERNITY BOARDING HOUSES AND LYING-IN HOSPITALS

(See Sections 1237-1-4; 12789)

SECTION 6259. Licenses granted; applications must be approved; record and notice. The commissioner of health may grant licenses to maintain maternity hospitals or homes, lying-in hospitals, or places where women are received and cared for during parturition. An application therefor shall first be approved by the board of health of the city, village or township in which such maternity hospital or home, lying-in hospital, or place where women are received and cared for during parturition is to be maintained. A record of the license so issued shall be kept by the state department of health, which shall forthwith give notice to the board of health of the city, village or township, in which the licensee resides, of the granting of such license and of the terms thereof. (108 v. Pt. I, 47.)

SECTION 6260. Term and contents of license. Such license shall be granted for a term not exceeding one year and shall state the name of licensee, the particular premises in which the business may be carried on, the number of women and infants that may be boarded, treated or maintained there at any one time, and if required by the board of health of the city, village or township in which such maternity boarding house or lying-in hospital is located, it shall be posted in a conspicuous place on the licensed premises. (99 v. 13.)

SECTION 6261. Limitation of women and children. No greater number of women and infants shall be kept at one time on such premises than is authorized by the license and no women or infants shall be kept in a building or place not designated in the license. (99 v. 13.)

SECTION 6262. Visitation and inspection. The commissioner of health and the boards of health of cities, villages or townships shall annually, and may at any time, visit and inspect, or designate a person to visit and inspect the system, condition and management of the institutions and premises so licensed. (108 v. Pt. I, 47.)

SECTION 6263. Revocation of license. The state board of health may revoke such license when a provision of this chapter is violated, or when, in the opinion of such board, such maternity boarding house or lying-in hospital is maintained without regard to the health, comfort or morality of the inmates thereof, or without due regard to sanitation and hygiene. (99 v. 14.)

SECTION 6264. Record thereof. Such board shall note such revocation upon the face of the record thereof and give written notice of the revocation to the licensee by delivering the notice to him in person or leaving it on the licensed premises, and shall forthwith notify the board of health of such city, village or township in which the maternity boarding house or lying-in hospital is situated. (99 v. 14.)

SECTION 6265. Reporting births. A birth which takes place in a maternity boarding house or lying-in hospital shall be attended by a legally qualified physician who shall forthwith report it to the board of

health of the city, village or township in which the maternity boarding house or lying-in hospital is located. (99 v. 14.)

SECTION 6266. Adopting children. A person holding such license shall keep a record, in a form to be prescribed by the state board of health, wherein he shall enter the name and address of the physician who attended at the birth taking place in such house or hospital of any infant who may be sick, the name, age and sex of children born on the premises or brought thereto, and age of a child who is given out, adopted or taken away to or by any person, together with the name and residence of the persons so adopting or taking away such child. (See section 12789.) (99 v. 14.)

SECTION 6267. Copy of record. Within twenty-four hours after such child is given out or taken away, the person licensed as aforesaid shall cause a correct copy of the record relating thereto to be sent to the board of health of the city, village or township wherein such house or hospital is located. (99 v. 14.)

SECTION 6268. Coroner's inquest. A person licensed as aforesaid, immediately after the death of an inmate of such boarding house or lying-in hospital, whether a woman or an infant born therein or brought thereto, shall cause notice thereof to be given to the board of health of the city, village or township in which such house or hospital is located. (99 v. 14.)

SECTION 6269. Local board of health. Such board of health shall forthwith call the coroner of the county in which said person died to hold an inquest on the body of the person, unless a certificate under the hand of a legally qualified physician is exhibited to said board by the licensee that such physician had personally attended and examined the person so dying, and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest. (99 v. 14.)

SECTION 6270. Book of forms. A licensee shall be entitled to receive gratuitously from the state board of health a book of forms for the registration and record of persons received into such home or hospital. Such book shall contain a printed copy of this chapter. (99 v. 15.)

SECTION 6271. Inspection. The officers and authorized agents of the state board of health and the boards of health of the cities, villages or townships in which such licensed premises are located may inspect such house or hospital at any time and examine every part thereof, call for and examine the records which are required to be kept by the provisions of this chapter, and inquire into all matters concerning such house or hospital and the inmates thereof. The licensee shall give all reasonable information to such persons so inspecting and afford them every reasonable facility for viewing and inspecting the premises and seeing the inmates thereof. And when complaint is made or a reasonable belief exists that a maternity boarding house or lying-in hospital is being conducted without license, the board of health may cause such house to be inspected by its health officer or the state board of health may designate a person to visit and inspect such premises. (99 v. 15.)

SECTION 6274. Secrecy of records. No officer or authorized agent of the state board of health or the boards of health of the cities, villages or townships where such licensed homes or hospitals are located, or a keeper of such house or hospital, shall divulge or disclose the contents of the records or of the particulars entered therein, except upon inquiry before a court of law, at a coroner's inquest or before some other competent tribunal, or for the information of the state board of health or the board of health of the city, village or township in which said house or hospital is located. (99 v. 15.)

SECTION 6276. License. A person shall not maintain a maternity boarding house or lying-in hospital, as defined in this chapter, unless licensed thereto by the state board of health. (99 v. 16.)

SECTION 6277. Relationship. In a prosecution under the provisions of this chapter or a penal law relating thereto, a defendant who relies for defense upon the relationship of any of said women or infants to himself, shall have the burden of proof thereof. (99 v. 16.)

ASSESSMENT FOR DRAINAGE PURPOSES

SECTION 6469. Proportionate assessment according to benefits. After the granting of the petition for any improvement under this chapter, and the letting of contracts for work and material, and the ascertainment and determination of all known claims for compensation for property taken, or damages to property from the construction of the improvement, the total cost thereof including the preliminary cost, and the actual or estimated cost of supervision and any known costs of litigation taxed against the county shall be assessed proportionally, according to special benefits conferred, upon all the lots and parcels of land specially benefited thereby, the owners of which have, as in this chapter provided, had notice of the proceedings for such improvement, whether such lots and parcels of land abut on the improvement or not. Such assessment shall be made as well against the lands of any railway company, township, county, municipality school district or board of education, or any other public board, as against privately owned property, for the benefit to the premises owned or controlled by such public corporation or body.

And in arriving at the amount of benefit to any piece of property due regard shall be had to any conditions that would require precedent expense before the benefit from the improvement would be available, and to any conditions that would permanently affect the degree of benefit that could be derived.

When per centum may be paid from ditch fund. Provided that the county commissioners, or the court, if, and when, it is found that the improvement will benefit the public health, convenience and welfare, or the result will increase to a practicable degree the valuation of property for public taxation, may order such an amount of such total cost, not exceeding ten per cent, paid from the general ditch improvement fund, or if there be not sufficient unappropriated in such fund, from any un-

appropriated money of the general fund of the county. And the balance shall be assessed according to benefits as herein provided. (108 v. Pt. I, 926.)

PRISON LABOR ON ROADS

SECTION 7496. Use of prison labor upon state roads. Whenever the state highway commissioner desires to use any number of prisoners, confined in the state penitentiary or reformatory, to work upon the state highways, known as the inter-county or main market roads, or to employ the prisoners in such institutions in the preparation of road building materials of any kind for use upon any of the said state highways, such commissioner shall make a requisition upon the warden or superintendent of such institution where such prisoners are confined, stating the number of prisoners which it is desired to use in said work, and the place where they are to be employed. Said requisition shall be made through the officials having general charge of said institution, and such officials and said highway commissioner shall by agreement provide for the cost of transportation and maintenance of said prisoners, and the discipline and government thereof. The discipline of such prisoners shall be under the control of guards furnished by the prison authorities. The rules and regulations under which such prisoners shall work shall be prescribed by the prison authorities, but the work to be done and the manner of doing such work shall be under the control of the state highway commissioner or those acting under his authority in charge of such work. (106 v. 655.)

SECTION 7497. Cost of transportation, maintenance and discipline, how paid; agreement with prison officials. The state highway commissioner may lawfully expend any moneys available for the construction, repair and maintenance of roads to meet the cost of transportation, maintenance and discipline of such prisoners while at work, and for the purchase of tools, machinery, supplies and road building materials needed in connection with the use of such prisoners upon said state highways, or in the manufacture of such road building materials. The amount to be paid to said prison authorities, if anything, for the use of said prisoners, in addition to the entire cost of transportation, maintenance and discipline of said prisoners, shall be agreed upon between the officials having charge of said institutions and the said highway commissioner, but the amount so paid shall not exceed the cost of such transportation, maintenance and discipline of said prisoners plus the amount to be credited to such prisoner on account of his labor upon such highways. In the cost of such discipline, however, may be included an equitable portion of the overhead charges of the institution in which such prisoners are confined. (106 v. 655.)

SECTION 7498. Use of prison labor upon county roads; cost. The county commissioners may make requisition in like manner as the state highway commissioner for the number of prisoners desired for use upon the county highways within said county, or in the manufacture and preparation of road building material of any kind. The county com-

missioners shall have full power and authority to enter into an agreement with the authorities controlling such prison, and all the provisions of law relating to the transportation, maintenance and discipline of prisoners when working upon the state highways, under requisition of the highway commissioner, shall apply to prisoners working upon county highways, and the same restrictions as to the amount to be paid said prison authorities for the use of such prisoners, shall be applicable to agreements entered into between such county commissioners and such prison authorities relating to the use of said prisoners. (106 v. 655.)

SECTION 7499. How requisitions for prison labor shall be filled. All requisitions for prisoners from the various counties of the state shall be filled in the order in which they are received, provided, however, that the requisitions of the state highway commissioner for the use of such prisoners shall at all times be given preference by the prison authorities. (106 v. 655.)

SECTION 7501. When prisoners shall not be used on highways. No state penal institutions or workhouse shall be required to furnish such prisoners to be employed on the highways or in the manufacture and preparation of road building materials, if the labor of such prisoners is required in the regularly maintained operations of such institution or workhouse. (106 v. 656.)

SECTION 7502. What prisoners subject to labor on highways. All persons convicted of crime and sentenced to be confined in the state reformatory, penitentiary, jail, workhouse or other penal institutions, shall be subject to labor upon the highways and streets as hereinbefore provided. (106 v. 656.)

SECTION 7507. Provision for use of prison labor on contracts of private individuals. The state highway commissioner, the county commissioners, or the authorities having charge of the streets of any city or village may provide for the use of prison labor in connection with contracts let to private individuals for the construction, maintenance and repair of such roads and streets, in which case the specifications for such improvement shall clearly set forth the amount of money to be deducted from the price paid for such improvement in lieu of the designated amount of prison labor employed on such improvement by the state, county or municipality. The discipline and legal custody of such prisoners shall, at all times during such work, remain under the control of the respective institutions furnishing such prisoners. If any prisoner does not perform his work to the satisfaction of the authorities employing such labor, such prisoner shall be taken from the road force at the request of the proper authorities and another substituted. (106 v. 657.)

SECTION 7508. Reports of prison authorities of estimate of road materials required. The state highway commissioner and county commissioners shall, on or before September first of each year report to the prison authorities an estimate of the amount and kind of material and supplies that can be used in connection with the construction and repair of the state and county highways during the coming year. This information shall be furnished to enable the authorities in charge of

said prisoners to make arrangements, where practicable, for the manufacture and preparation of such materials within such prison or at such other places throughout the state as the prison authorities shall decide. (106 v. 657.)

SECTION 7510. Prisoner attempting to escape shall lose credits. Any prisoner attempting to escape while engaged in work on any of the roads or streets of this state or in the manufacture of any of the materials for use on said roads or streets, under the provisions of this act, shall lose any credits, which may have accrued to him on his prison term for good behavior, and the authorities, having charge of the prison from which said prisoners are detailed may, by special regulation, allow additional credit on the terms of such prisoners for good conduct while engaged in work under the provisions of this act. (106 v. 658.)

SECTION 7511. Annual report of prisoners available for work. The prison authorities shall, before January first of each year, advise the state highway commissioner and county commissioners of the probable number of prisoners that will be available for work upon the roads of the state during the coming year. (106 v. 658.)

SECTION 7512. Selection of guards. The guards, if any, in charge of said prisoners shall, so far as possible, be selected from men who are competent to supervise the work under construction and, so far as practicable, said guards shall supervise such work under the directions of persons having the supervisions of the construction or repair of said roads or streets, in addition to their duties as guards. (106 v. 658.)

USE OF SCHOOL BUILDINGS

SECTION 7622-1. School and other public buildings available for educational and recreational purposes. That upon application of any responsible organization, or a group of at least seven citizens, all school grounds and school houses, as well as all other buildings under the supervision and control of the state, or buildings maintained by taxation under the laws of Ohio, shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population, and for the discussion of all topics tending to the development of personal character, and of civic welfare. Such occupation, however, should not seriously infringe upon the original and necessary use of such properties. The public officials in charge of such buildings shall prescribe such rules and regulations for their occupancy and use as herein provided as will secure a fair, reasonable and impartial use of the same. (106 v. 551.)

SECTION 7622-2. Citizens applying responsible for damage. The organization or group of citizens applying for the use of properties as specified in section 7622-1 of the General Code shall be responsible for any damage done them over and above the ordinary wear, and shall, if required, pay the actual expense incurred for janitor service, light and heat. (106 v. 552.)

SECTION 7622-3. Purposes other than school, for which house or rooms may be used. The board of education of any school district shall, upon request and the payment of the proper janitor fees, subject to such regulations as may be adopted by such board, permit the use of any schoolhouse and rooms therein and the grounds and other property under its control, when not in actual use for school purposes, for any of the following purposes:

1. For giving instructions in any branch of education, learning or the arts.

2. For holding educational, civic, social or recreational meetings and entertainments, and for such other purposes as may make for the welfare of the community. Such meetings and entertainments shall be non-exclusive and open to the general public.

3. For public library purposes, as a station for a public library, or as reading rooms.

4. For polling places, for holding elections and for the registration of voters, for holding grange or similar meetings. (107 v. 607.)

SECTION 7622-4. Supervision and conduct of social and recreational work. Upon the nomination of the superintendent of any school district the board of education of such district may employ a person or persons to supervise, organize, direct and conduct social and recreational work in such school district. The board of education may employ competent persons to deliver lectures, or give instructions on any educational subject, and provide for the further education of adult persons in the community. (106 v. 552.)

SECTION 7622-5. Use in cities. In cities employing a person to direct and supervise social and recreational work such person may use the school buildings, grounds, and other public buildings or grounds in such city for the purposes indicated in section 7622-3 of the General Code subject to the limitations provided in sections 7622-1 to 7622-3 of the General Code. (106 v. 553.)

SECTION 7622-6. Co-operation with other public officials. Boards of education may co-operate with commissioners, boards or other public officials having the custody and management of public parks, libraries, museums and public buildings and grounds of whatever kind in providing for education, social, civic and recreational activities, in buildings and upon grounds in the custody and under the management of such commissioners, boards or other public officials. (106 v. 553.)

SECTION 7622-7. Tax levy for social center fund. The board of education of any school district or a municipality may levy annually upon the taxable property of such school district or municipality within the limitations of sections 5649-2 of the General Code, not to exceed two-tenths of a mill for a social center fund to be used for social and recreational purposes. (106 v. 553.)

SECTION 7644-2. Education of children in tuberculosis hospitals. The board of trustees of each district hospital for tuberculosis, the county commissioners of each county maintaining a county hospital for tuberculosis, and the managing officer or officers of each municipal hos-

pital for tuberculosis, shall provide for the education of children of school age admitted to such hospital. The instruction so provided shall be directed by and be under the supervision of the county or city superintendent of schools in co-operation with the superintendent of the hospital. The expense incurred for salaries of teachers in a municipal tuberculosis hospital may be paid by the city board of education; that in a county tuberculosis hospital may be provided from the funds of the tuberculosis hospital or may be pro-rated, according to the number of children taught, to the county, city and exempted village boards of education of the county. The amount charged against a county school district shall be divided equally between the rural and village school districts within the county school district, and the county auditor shall deduct from the tax funds in the county treasury due to such districts the amounts certified by the county board of education, which amounts shall be transferred to the contingent fund of the county board. The amounts pro-rated to the city and exempted village district shall be deducted by the county auditor from the tax fund in the county treasury due such districts, and the amount so deducted together with the amount pro-rated to the county board of education and transferred to the contingent fund of the county board shall be paid to the county hospital authorities. The expense of such instruction in the case of a district tuberculosis hospital shall be pro-rated at the end of each month to the local boards of education of the various districts from which children have been received, according to the number of days the children were instructed, and bills for the respective amounts shall be paid by such local boards of education promptly upon presentation. (110 v. 231.)

EDUCATION OF CHILDREN IN CHILDREN'S HOMES

SECTION 7676. Schools for children's homes and orphans' asylums. The inmates of a county, semi-public or district children's home shall have the advantage of the privileges of the public schools. So far as possible such children shall attend such school or schools in the district within which such home is located. Whenever this is impossible and a school is maintained at the home, such school shall be under the control and supervision of the city, township, village or special board of education, having jurisdiction over the school district within which such home is located. Such board of education shall employ with the approval of the superintendent of the home necessary teachers, and provide books and educational equipment and supplies, and conduct such school in the same manner as a public school within the district. The trustees of the home shall furnish necessary furniture, fuel and light. (107 v. 61.)

SECTION 7677. Report to county auditor; contents. On or about the first day of February and of August the superintendent of the school district in which the inmates of a county, semi-public or district children's home is located shall furnish the county auditor a detailed report showing the average per capita cost, of conducting a school at such home, or the average per capita cost, except for improvement and

repairs, of all the elementary schools in such district in case such inmates attend such a school, for the preceding six months. Such report shall also give the names and former residence of all inmates in attendance at school, the duration of attendance, and such other information as the county auditor may require to carry out the provisions of the next section. (107 v. 61.)

SECTION 7678. Cost of educating inmate, how determined and how paid. A child who is an inmate of a county, semi-public or district children's home and who was previously a resident of the school district in which such home is located shall be entitled to an education at the expense of such school district, but any child who was not a resident of such school district shall be educated at the expense of the school district of its last residence. Any child who was not a resident of the school district within which such home is located prior to admission or commitment to such home, shall be educated at the expense of the district of its last residence. The county auditor upon receipt of the above report from the board of education shall, before making a semi-annual distribution of taxes collected, estimate the amounts chargeable to the various school districts for tuition of inmates of such home, and shall transfer to the proper school funds such amounts. In case there are inmates from another county, the county auditor of the county in which the home is located shall certify the amount to the auditor of the county of such children's residence who shall forthwith issue his warrant on treasurer of the same county for such amount, and shall proceed to apportion the proper amounts to the various school districts of such county in the manner described above. (107 v. 61.)

SECTION 7681. Who may be admitted to schools free; when tuition may or shall be charged and collected. The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, but the time in the school year at which beginners may enter upon the first year's work of the elementary schools shall be subject to the rules and regulations of the local boards of education. Inmates of the proper age of county semi-public and district children's homes shall be admitted after the manner described in section 7676. The board of education may admit the inmates of a private children's home or orphan asylum located in the district, with or without the payment of tuition fees, as may be agreed upon; provided any child who is an inmate of such home or asylum and previous to admission was a resident of the school district in which such home or asylum is located shall be entitled to free education; and provided, any such inmate who attends the public schools was prior to admission to such home or asylum a resident of another school district of the state of Ohio and a tuition fee is charged, the same method of re-imbursement shall be followed as is provided in section 7677 and 7678; and provided further, for any such inmate who attends the public schools and who prior to admission to such home or asylum was not a resident of the state of Ohio, such home or asylum shall pay from its own funds such tuition as may be agreed upon. But all youth of school age living apart from their parents or guardians and who

work to support themselves by their own labor, shall be entitled to attend school free in the district in which they are employed. (107 v. 62.)

SPECIAL SCHOOLS FOR DEAF, BLIND AND CRIPPLED

SECTION 7755. Instruction of deaf, blind and crippled. The superintendent of public instruction may grant permission to any city, village or rural board of education, upon its application, to establish and maintain a class or classes for the instruction of deaf or blind persons over the age of three, or of crippled persons over the age of five.

The superintendent of public instruction may grant permission to any board of education which maintains a class for the instruction of blind persons, upon its application, to pay for the board of any blind persons, residents of this state, under the age of forty-five, provided that by so doing the board of education is enabled to further its educational plan for blind persons, and provided that such blind persons are not boarded in the homes of their parents or legal guardians, and further provided that such blind persons are under the training of a person or persons designated by such board of education to give such training. At no time shall the number of blind persons residents of the school district in which such class or classes for the blind are maintained who are so boarded at the expense of the board of education exceed one-fourth of the total enrollment for the year of such class or classes except by permission of the superintendent of public instruction. (109 v. 257.)

SECTION 7755-1. Payment of board by board of education, when. The superintendent of public instruction may grant permission to any board of education which maintains a class for the instruction of crippled persons, upon its application, to pay for the board of any crippled persons, residents of the state and non-residents of the school district, who are being educated in such class, provided that such persons in the judgment of the board of education and the superintendent of public instruction cannot be transported from their respective homes to and from such class. (109 v. 257.)

SECTION 7755-2. Payment when child resident of one district attends in another. If a child resident of one school district attends a class for the blind, deaf, crippled or those of defective mentality in another, the board of education of the district in which he resides may pay his tuition in a sum equal to the tuition in the district in which such class is located for a child of normal needs of the same school grade. The board of education of the district in which such child resides may afford or pay for his transportation to the class in the other district; and the board of education of the district in which the class which he attends is located may provide his transportation to the class. Upon direction of the superintendent of public instruction the board of education of the district in which such child resides shall pay for his transportation and tuition. (109 v. 257.)

SECTION 7755-3. Transportation of crippled child. In case a child is so crippled that he is unable to walk to the school to which he is assigned the board of education of the district in which he resides shall

provide for his transportation to such school. This section shall apply whether there is a special class for crippled children to which he is assigned or not. In case of dispute whether the child is able to walk to the school or not the district health commissioner shall be judge of such ability. (109 v. 258.)

SECTION 7755-4. Children instructed in the home, how counted. In case there are in any school district crippled children not able even with the help of transportation to be assembled in a school and instruction for these children is provided in the home, these children shall be counted under the provisions of section 7757, General Code, counting however three hours of instruction of such children by a teacher provided by the board of education as equal to the attendance of one child for two days at school. (109 v. 258..)

SECTION 7755-5. Who may be counted as full time pupils. If a child is handicapped by two of the defects mentioned in section 7755, General Code, the superintendent of public instruction may allow him to be counted as a full-time pupil among those with each kind of defect in determining the state's contribution to the classes for such children, provided the types of work and attention necessary for both types of children are afforded him. (109 v. 258.)

SECTION 7756. How special class may be established. Upon petition of the parents or guardians of crippled children in any school district of the respective ages named in section 7755, General Code, the board of education of the given district shall apply to the superintendent of public instruction for permission to establish a special class for such children, and if such is granted shall establish such class not later than the beginning of the following school year upon the standards prescribed under section 7761, General Code; if a board of education fails to perform its duty under this section, the provisions of section 7610, General Code, shall apply as to the acts relating to such special class. (109 v. 258.)

SECTION 7757. How expenses of schools defrayed. At the close of each school year the board of education of each school district in which any such classes for the education of the deaf, blind or crippled are maintained shall certify to the auditor of state the names and residences of the persons instructed in such special classes and the period of time each was instructed and the names and residences of the persons boarded at the expense of the board of education and the period of time each was boarded; and the amount expended for special appliances and for the excess of current operating cost of the education of such pupils above the current operating cost of the education of an equal number of pupils of normal needs of the same school grades in the district for the same period of time; and thereupon the auditor of state shall draw his warrant upon the treasurer of state in favor of such board of education in an amount equal to that expended for the aforesaid purposes, but not to exceed three hundred dollars for each deaf or crippled pupil given instruction in such classes within said district for nine months during the said school year, and a proportionate amount for each deaf or crippled pupil given instruction therein for a part of

said school year more or less than nine months, and not to exceed three hundred and seventy-five dollars for each blind person given instruction in such classes within said district for nine months during said school year, and a proportionate amount for each blind person given instruction therein for a part of said school year more or less than nine months, and two hundred and fifty dollars additional for each blind or crippled person boarded at the expense of such board of education for nine months during said school years and a proportionate amount for each blind or crippled person so boarded for a part of said school year more or less than nine months.

Current operating cost under the terms of this section shall be exclusive of any charges for rental and maintenance or operation of buildings. No charge shall be made against such schools for the deaf, crippled or blind for expenditures other than transportation which would have been incurred had such special classes not been in operation. The superintendent of public instruction shall be the final authority in deciding all questions relative to what constitutes special appliances and current operating cost under the terms of this section. (109 v. 258.)

SECTION 7758. Payment by state treasurer. The sums provided in the next preceding section shall be paid by such state treasurer upon the presentation of such warrant or order upon satisfactory proof made to him by the president or clerk of the board of education maintaining such school, of the number of persons boarded or instructed therein, their residence, and the period of time such persons were so boarded or instructed in such school or schools the preceding school year, and of the amount expended for special appliances and for the excess of current operating cost of the education of such pupils above the current operating cost of the education of an equal number of pupils of normal needs of the same school grades in the same school district for the same period of time during said school year, and upon certification by the state superintendent of public instruction that the inspection provided for in section 7761 had shown these schools to be operating under satisfactory conditions. 108 v. Pt. II, 1281.)

SECTION 7759. Appointment and qualifications of teachers. Teachers in such schools shall be appointed as are other public school teachers. They shall possess the usual qualifications required of teachers in the public schools, and in addition thereto such special training and equipment as the state superintendent of public instruction or the board of education may require. The so-called oral system shall be taught by such teachers in such schools for the deaf. If, after a fair trial of nine months, any of such children in any school for the deaf for any reason are unable to learn such method, then they may be taught the manual method in a separate school, providing however that there are not fewer pupils than provided in section 7755 of the General Code. (107 v. 154.)

SECTION 7760. Who shall be considered as deaf, blind or crippled. For the purpose hereof, any person of sound mind, who, by reason of defective hearing or defective vision, or so crippled as to be physically unable to care for himself without assistance, cannot profitably or safely be educated in the public schools as other children, shall be considered

as deaf, blind, or crippled and after the establishment of any such school by any school district, may be compelled to attend such school or a state institution. (107 v. 154.)

SECTION 7761. Annual statement of expenditures to superintendent.

The superintendent of public instruction shall at the close of each school year require from each board of education of a school district, conducting such schools for deaf, blind and crippled persons a financial statement showing expenditures during the preceding school year for special appliances and for the excess of current operating cost of such pupils above the current operating cost of the education of an equal number of pupils of normal needs of the same school grades in the same school district for the same period of time during said school year.

The superintendent of public instruction shall select some competent person or persons to inspect all classes established under section 7755, General Code, at least once a year, and to report concerning the instruction in such classes, the conditions under which they are maintained and the conditions under which such blind and crippled persons are boarded.

The superintendent of public instruction shall prescribe standard requirements for day schools for the deaf, blind, and crippled, which receive state aid, which requirements shall include the conditions under which such schools are conducted, the methods of instruction and supervision, the qualifications of teachers and the conditions and terms under which they are employed, the special equipment and agencies for instruction provided, and the conditions of the rooms and buildings in which the schools are held, and he shall prescribe conditions under which blind and crippled persons may be boarded at the expense of a board of education. (109 v. 259.)

SECTION 7761-1. Co-operation among boards maintaining special classes. The superintendent of public instruction shall have authority to arrange a plan of co-operation among boards of education which maintain special classes for the blind, for investigation into broader opportunities for the future employment of the pupils and better methods for their instruction. The cost of such investigation shall be charged to the current operating cost of the school for the blind. The superintendent of public instruction shall prescribe minimum standard requirements concerning the extent of such co-operation and the general methods of such investigation. (109 v. 260.)

SECTION 7780. Proceedings in juvenile court. Upon information obtained as in section 7795, General Code, or otherwise, the judge of the juvenile court shall fix times when he will hear the questions whether each such child not reported as being or not believed by him being already properly instructed shall be required to be sent for instruction to one of the state institutions for such handicapped children, and shall for each case thereupon issue a warrant to the attendance officer or some other suitable person to bring the child before him at his office at the time fixed for the hearing. He shall also issue an order on the parents, guardian or other person in charge of the child to appear be-

fore him at such hearing, a copy of which order must be served personally on the proper person by the attendance officer or other person ordered to bring the child before the judge. If on the hearing the judge of the juvenile court is satisfied that the child is not being properly educated and will be benefited by attendance at one of the state institutions for the education of such children and is a suitable person to receive instruction therein or that it is dangerous to society for the child to remain without custodial care, he may send or commit such child to such institution adapted to the needs of children handicapped in the particular respect. (109 v. 393.)

SECTION 7781. Instruction in institution. Any such child committed as provided in section 7780, General Code, shall be received, instructed or cared for in the given institution unless the child is deemed by the bureau of juvenile research, after careful examination, not a proper person to be received in the given type of institution. (109 v. 234.)

ADOPTION

SECTION 8023. Age for making valid contract. All persons of the age of twenty-one years and upward, who are under no legal disability, shall be capable of contracting respecting goods, chattels, lands, tenements, and any other matter or thing which may be the legitimate subject of a contract, and, to all intents and purposes be of full age. (110 v. 125.)

SECTION 8024. Who may petition for adoption of minor child; contents of petition. Any proper person, or a husband and wife jointly, may petition the probate court of the county in which he or they have a legal settlement, of the county in which the child resides or of the county in which the child had a legal residence when it became a public charge, for leave to adopt a child and for a change of the name of such child. Such petition for adoption shall specify the name, age, and place of residence of the petitioner and of the child, and the name by which the child shall be known; whether such child is possessed of any property, and the full description of the property, if any; whether the child has one or both parents living; in case one or both are alive, then the name or names and place of residence of such father and mother shall be given unless proven to be unknown to the petitioner. Provided that if such child sought to be adopted is, by previous order of a juvenile court, under the legal guardianship and permanent custody of a state board or of an institution or agency certified by the board of state charities for the care of children, or has been legally surrendered to the guardianship of such institution or agency, then the names of parents shall be omitted from such petition, but the court shall cause such allegation and the petition to be verified. (109 v. 177.)

SECTION 8024-1. Hearing on petition and examination of parties. Upon the presentation of such petition the same shall be filed with the court and the said court shall appoint a day for the hearing of said petition and the examination, under oath, of the parties in interest, not less than ten nor more than thirty days from the filing of the petition. It shall be at the option of the court to adjourn the hearing of said petition

or the examination of the parties in interest, from time to time, as the nature of the case may require. If it shall be necessary, under the provisions of this act, that a discreet and suitable person shall be appointed as next friend to the child sought to be adopted, the court shall make such appointment and shall thereupon assign a day for the hearing of said petition and examination of the parties in interest, not less than ten nor more than thirty days from the time of appointing the next friend. In case there is in the county an institution or agency approved by the board of state charities, such institution or agency may be designated as next friend and consent be given as indicated in section 8025. Or the court may order the board of state charities through an authorized representative to act in such capacity. Such person, institution, agency or board thus designated shall proceed to verify the allegations of the petition, shall make appropriate inquiry to determine whether the proposed foster parents and their home are suitable for such child, and whether such child is a proper subject for adoption in such home. If such child is under the legal guardianship of a state board or of any certified institution or agency, no next friend shall be appointed, but such board, institution or agency shall prepare the report required by this section. As soon as practicable, there shall be submitted to the court a full report in writing, with a recommendation as to the proposed adoption and any other information concerning such child or the proposed home as the court may require. Upon the day so appointed, the court shall proceed to a full hearing of the petition and the examination of the parties in interest, under oath, with the right of adjourning the hearing and examination from time to time as the nature of the case may require. The board of state charities shall prepare and furnish to the probate court a suitable blank for use by persons designated to make the report required by this section. (109 v. 178.)

SECTION 8025. Written consent required. In any adoption proceedings written consents must be given to such adoption as follows:

(a) By the child sought to be adopted if more than thirteen years of age.

(b) By each of the living parents or by the mother of an illegitimate child, except as follows:

(c) By the parent or person awarded the legal custody and guardianship by a juvenile court because of dependency, or because of the mental, moral or other unfitness of one or both parents; provided that such juvenile court approves of such consent whereupon the jurisdiction of such court over such child shall cease.

(d) By the parent awarded custody of child by divorce decree, provided the court which granted such decree approves of such consent, and because of such approval the jurisdiction of such court over such child shall thereupon cease.

(e) By legal guardian of the person of such child, if parents are dead or their residence has been unknown for at least one year, or if the parents have, because of mental, moral or other unfitness, been deprived of legal custody and guardianship of such child by juvenile court; but if

there is no guardian and such child is not the ward of a state board or of a certified institution or agency, a next friend shall be appointed as hereinbefore provided, to give consent.

(f) If the parent or parents having the legal custody give the custody of such child for the full term of its minority to any institution or agency established under the laws of the state to care for children and under the approval of the board of state charities, or if such institution or agency has otherwise legally acquired the custody and control of such child, the president or secretary of such institution or agency shall file a certified copy of the consent of the board of trustees, or of the proper officers authorized by such institution or agency to act in matters of adoption; and if such child is a ward of the board of state charities or other state board the secretary of such board shall file a certified copy of the consent given in accordance with its rules.

All such consents to such adoptions shall be acknowledged and witnessed. (109 v. 178.)

SECTION 8026. Adoption by step-father or step-mother. An inhabitant of this state, the husband of a woman who has a minor child or children by a former husband; or an inhabitant of this state the wife of a man who has a minor child or children by a former wife, may petition the probate court of his or her proper county for leave to adopt such minor child or children and, when the application is made by the husband alone, or jointly with his wife, for a change of the name or names of such child or children. When each have such minor child or children, the application may be made jointly by the husband and wife. (94 v. 219.)

SECTION 8027. Law applicable as to consent. In any adoption in accordance with section 8026 the provisions of section 8025 shall apply in the matter of consent, so far as applicable. (109 v. 179.)

SECTION 8028. Examination of husband and wife separately. When the petition is filed by a husband and wife, the court shall examine each separate and apart from the other and refuse leave for such adoption unless satisfied from the examination that each petitioner of his or her own free will and accord desires it. (109 v. 179.)

SECTION 8029. Decree of adoption. If the court, from the testimony, shall be of the opinion that the facts stated in the petition are true, and that the petitioner or petitioners are of good moral character and of reputable standing in the community, and of ability to properly maintain and educate the child sought to be adopted, and that the best interests of the child would be promoted by such adoption, and that such child is found to be suitable for adoption, and is satisfied that all the provisions relative to adoption have been complied with, then the court shall make a decree reciting the facts at length, and the name by which the child shall hereafter be known. (109 v. 179.)

SECTION 8030. Record of petition, decree and proceeding. The petition, decree and proceedings shall be recorded in a book kept for that purpose and properly indexed; such book shall become part of the records of the probate court and all reports and affidavits shall be properly filed. Except when such child is adopted under the provisions of sections 8026 and 8027, upon such decree of adoption the natural parents of the child,

if living, shall be divested of all legal rights and obligations due from them to the child or from the child to them; and the child shall be free from all legal obligations of obedience or otherwise to such parents; and the adopting parent or parents of the child shall be invested with every legal right in respect to obedience and maintenance on the part of the child as if said child had been born to them in lawful wedlock; and the child shall be invested with every legal right, privilege, obligation and relation in respect to education, maintenance and the rights of inheritance to real estate, or to the distribution of personal estate on the death of such adopting parent or parents as if born to them in lawful wedlock; provided, such child shall not be capable of inheriting property expressly limited to the heirs of the body of the adopting parent or parents; and provided also, on the death of the adopting parent or parents and the subsequent death of the child so adopted, without issue, the property of such deceased parent or parents shall descend to and be distributed among the next of kin of said parent or parents and not to the next of kin of the adopted child; and provided, also, if such adopting parent or parents shall have other child or children, then the children by birth and adoption shall, respectively, inherit from and through each other as if all had been children of the same parents born in lawful wedlock. Nothing in this act shall be construed as debarring a legally adopted child from inheriting property of its natural parents or other kin. (109 v. 179.)

SECTION 8030-1. Residence in home six months before decree. No decree of adoption shall be made until such child has resided in the home of the petitioner for at least six months, unless the court for some special reason which shall be entered in the record deems it best to waive this requirement. (109 v. 180.)

SECTION 8030-2. Decree may be annulled because of epilepsy. feeble-mindedness, etc. If, after its adoption and before it becomes fourteen years of age, a child develops feeble-mindedness, epilepsy, insanity, or venereal disease as a result of conditions existing prior to adoption, and of which the adopting parent had no knowledge or information, a petition setting forth such conditions may be filed in the court which entered the decree of adoption, and if such conditions are proved to the satisfaction of the court, such adoption may be declared null and void. The court shall thereupon make proper disposition of such child by a commitment to an appropriate state institution as provided in the laws of Ohio or refer such child to the juvenile court. (109 v. 180.)

SECTION 8030-3. The term "juvenile court" as used in this act shall be construed as applying to such courts as are created by section 1639 and all other courts now or hereafter created to administer the provisions of law relating to dependent, delinquent and neglected children. (109 v. 180.)

SECTION 8031. Parent may be summoned to appear before probate court. When through vagrancy, negligence, or misconduct, the parent or parents of any minor child or children are unable to support such child or children, or, if able, neglect or refuse support therefor, or when such parent or parents unlawfully beat, injure, or otherwise habitually ill treat such child or children or cause or allow them to engage in common

begging, upon complaint by affidavit of some reputable citizen of the county in behalf of such child or children, setting forth facts bringing the case within this statute, the probate court of the proper county may issue a summons requiring such parent, or parents, to appear and answer such complaint. If, upon the hearing of the matters complained of, the court finds them to be true, and that it is for the best interest of such child or children to be taken from such parent or parents, it may make an order to that effect, and direct the placing of such child or children in any suitable orphan asylum or children's home or with some other benevolent society, to be taken and cared for and placed in homes found for them by adoption or otherwise by such asylum, home or society, upon the terms and conditions required in case of other children given to such asylum, home or society. The proper officers of such asylum, home or society are authorized to give the necessary consent in placing such children. (78 v. 203.)

SECTION 8032. Right and duties of parents separated or divorced. When husband and wife are living separate and apart from each other, or are divorced and the question as to the care, custody and control of the offspring of their marriage is brought before a court of competent jurisdiction in this state, they shall stand upon an equality as to the care, custody, and control of such offspring, so far as it relates to their being either father or mother thereof. (100 v. 97.)

SECTION 8033. Court to determine custody of children. Upon hearing the testimony of either or both of such parents, corroborated by other proof, the court shall decide which one of them shall have the care, custody and control of such offspring, taking into account that which would be for their best interests, except that, if such children be ten years of age or more, they must be allowed to choose which parent they prefer to live with, unless the parent so selected, by reason of moral depravity, habitual drunkenness or incapacity, be unfitted to take charge of such children in which event the court shall determine the custodian. The above provisions permitting children to choose the parent with whom they desire to live, also shall apply to proceedings for modification of the former orders of the court, fixing the custody thereof, as in original actions. If upon such hearing it should be proved that both parents are improper persons to have the care, custody and control of their children, in its discretion, the court may either designate some reputable and discreet person to take charge thereof, or commit them to a county or district children's home in which they or their parents have a legal settlement. (100 v. 97.)

SECTION 8034. Order of court. The court may order either or both parents to support or help support such children, whoever be their custodian, and also may make any just and reasonable order or decree, permitting the parent who is deprived of such care, custody and control of children to visit and have temporary custody of them. (100 v. 97.)

SECTION 8034-1. Continuing jurisdiction, modified. In any case where the common pleas court, or a probate court having jurisdiction, has made an award of the custody of a minor child or children and an order for support of such minor child or children, such court may certify the

same to the juvenile court of the county for further proceedings thereunder according to law, and thereupon the jurisdiction of the common pleas court, or probate court, in such case as to the custody and support of such minor child or children shall cease. (110 v. 127.)

SECTION 8035. Appeal. An appeal to a higher court may be had upon appellant giving bond with one good surety to the adverse party, approved by the court from whose decree appealed, in a sum to be determined by it, but in no case to less than accrued costs and a fair estimate of accruing costs. The court before whom such case is heard may decree costs of such proceeding against either party, or divide them in any proportion. (100 v. 97.)

DECEASED INMATES

(See Sections 3496; 12689; 12692)

SECTION 9984. How medical colleges may receive bodies for dissection. Superintendents of city hospitals, directors or superintendents of city or county infirmaries, directors or superintendents of workhouses, directors or superintendents of asylums for the insane, or other charitable institutions founded and supported in whole or in part at public expense, the directors or warden of the penitentiary, township trustees, sheriffs, or coroners, in possession of bodies not claimed or identified, or, which must be buried at the expense of the county or township, before burial, shall hold such bodies not less than thirty-six hours and notify the professor of anatomy in a college which by its charter is empowered to teach anatomy, or the president of the county medical society, of the fact that such bodies are being so held. Before or after burial such superintendent, director, or other officer, on the written application of the professor of anatomy, or the president of a county medical society shall deliver to such professor or president, for the purpose of medical or surgical study or dissection, the body of a person who died in either of such institutions, from any disease, not infectious, if it has not been requested for interment by any person at his own expense. (93 v. 84.)

SECTION 9985. Body to be delivered to claimant. If the body of a deceased person so delivered, be subsequently claimed, in writing, by a relative or other person for private interment, at his own expense, it shall be given to such claimant. (93 v. 84.)

SECTION 9986. Interment of body after dissection. After such bodies have been subject to medical or surgical examination or dissection, the remains thereof shall be interred in some suitable place at the expense of the parties in whose keeping the corpse was placed. (93 v. 84.)

SECTION 9987. Notification of relatives. In all cases the officer having such body under his control, must notify or cause to be notified, in writing, the relatives or friends of the deceased person. (93 v. 84.)

SECTION 9988. Body of strangers or travelers. The bodies of strangers or travelers, who died in any of the institutions above named, shall not be delivered for the purpose of dissection unless the stranger or traveler belongs to that class commonly known as tramps. Bodies de-

livered as herein provided shall be used for medical, surgical and anatomical study only, and within this state. (93 v. 84.)

SECTION 9989. Liability for having unlawful possession of body. A person, association, or company, having unlawful possession of the body of a deceased person shall be jointly and severally liable with any other persons, associations, and companies that had or have had unlawful possession of such corpse, in any sum not less than five hundred nor more than five thousand dollars, to be recovered at the suit of the personal representative of the deceased in any court of competent jurisdiction, for the benefit of the next of kin of deceased. (R. S. of 1880.)

HUMANE SOCIETY

SECTION 10062. Ohio humane society. The Ohio state society for the prevention of cruelty to animals, shall remain a body corporate, under the name of the "Ohio humane society," with the powers, privileges, immunities, and duties heretofore possessed by such society, hereinafter specified as to county societies, and may appoint any person, in a county where there is no such active society, to represent the state society, and to receive and account for all funds coming to that society, from fines or otherwise. (84 v. 207.)

SECTION 10063. Objects and power to acquire property. The objects of such society, and all societies organized under sections ten thousand and sixty-seven and ten thousand and sixty-eight, shall be the inculcation of humane principles, the enforcement of laws for the prevention of cruelty, especially to children and animals, to promote which objects such societies may respectively acquire property, real or personal, by purchase or gift. All property acquired by gift, devise or bequest for special purposes, shall be vested in a board of trustees consisting of three members elected by the society, which board must manage such property, and apply it in accordance with the terms of the gift, devise, or bequest, with power to sell it and re-invest the proceeds. (84 v. 207.)

SECTION 10064. Officers and rules. Such society may elect such officers, and make such rules, regulations and by-laws as are deemed expedient by its members for their own government and the proper management of its affairs. The society may appoint agents in any county of this state where no active society exists, under such sections ten thousand and sixty-seven and ten thousand and sixty-eight, to represent it and receive and account for all funds coming to the society from fines or otherwise, and may also appoint agents at large to prosecute the work of the society throughout the state. (84 v. 207.)

SECTION 10065. Powers of agents. The agents of such society and of all societies organized under such sections, whose appointment has been approved as hereinafter provided, may arrest a person found violating any law for the protection of persons or animals, or the prevention of cruelty thereto. Upon making such arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against him. But agents shall not make such arrests within a municipal corporation unless their

appointment has been approved by the mayor thereof, nor within a county beyond the limits of a municipal corporation, unless their appointment has been approved by the probate judge of the county. The mayor or probate judge must keep a record of such appointments. (84 v. 207.)

SECTION 10066. Branches. Branches of such society consisting of not less than ten members may be organized in any part of the state to prosecute the work of the societies in their several localities, under rules and regulations prescribed by this society. Societies organized in any county under the next following section may become branches of such society by resolution adopted at a meeting thereof called for that purpose, a copy of which resolution shall be forwarded to the secretary of state. (84 v. 207.)

SECTION 10067. Other societies authorized. Societies for the prevention of acts of cruelty to animals may be organized in any county, by the association of not less than seven persons. The members thereof, at a meeting called for the purpose, shall elect not less than three of their members directors, who shall continue in office until their successors are duly chosen. (72 v. 129.)

SECTION 10068. Incorporation. The secretary or clerk of the meeting must make a true record of the proceedings thereat, and certify and forward it to the secretary of state, who shall record it. This record shall contain the name by which such association is to be known, and from and after its filing, the directors and associates, and their successors, will be invested with the powers, privileges, and immunities incident to incorporated companies. A copy of such record, duly certified by the secretary of state, shall be taken in all courts and places in this state, as evidence that such society is a duly organized and incorporated body. (72 v. 129.)

SECTION 10069. Officers and by-laws. Such societies may elect such officers, and make such rules, regulations, and by-laws, as are deemed expedient by their members for their own government and the proper management of their affairs. (72 v. 129.)

SECTION 10070. May appoint agent. Such societies may appoint agents who are residents of the county or municipality for which the appointment is made, for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals, who may arrest any person found violating any provision of this chapter, or any other law for protecting persons or animals or preventing acts of cruelty thereto. Upon making such arrest, such agent shall convey the person so arrested before some court or magistrate having jurisdiction of the offense, and there forthwith make complaint on oath or affirmation of the offense. (72 v. 129.)

SECTION 10071. Approval of appointments. All appointments by such societies under the next preceding section shall have the approval of the mayor of the city or village for which they are made. If the society exists outside of a city or village, appointments shall be approved by the probate judge of the county for which they are made. The mayor or probate judge shall keep a record of such appointments. (72 v. 129.)

SECTION 10072. Salary of agents. Upon the approval of the appointment of such an agent by the mayor of the city or village, the

council thereof shall pay monthly to such agent or agents from the general revenue fund of the city or village, such salary as the council deems just and reasonable. Upon the approval of the appointment of such agent by the probate judge of the county, the county commissioners shall pay monthly to such agent or agents, from the general revenue fund of the county, such salary as they deem just and reasonable. The commissioners, and the council of such city or village may agree upon the amount each is to pay such agent or agents monthly. The amount of salary to be paid monthly by the council of the village to such agent shall not be less than five dollars, by the council of city not less than twenty dollars, and by the commissioners of the county, not less than twenty-five dollars. But not more than one agent in each county shall receive remunerations from the county commissioners under this section. (98 v. 44.)

SECTION 10073. Police powers of officers and agents. An officer, agent, or member of such society may interfere to prevent perpetration of any act of cruelty to animals in his presence, use such force as is necessary to prevent it, and to that end may summon to his aid any bystanders. (72 v. 129.)

SECTION 10074. Interpretation of words. In this chapter, and in every law relating to or affecting animals, the word "animal" includes every living dumb creature; the word "torture," "torment," and "cruelty" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief. The words "owner" and "person" include corporations; and the knowledge and acts of their agents and employes in regard to animals transported, owned, employed by, or in the custody thereof, is the act of the corporations. (72 v. 129.)

SECTION 10075. Member may require police to act. A member of such society may require the sheriff of any county, the constable of any township, the marshal or policeman of any city or village, or the agent of such society, to arrest any person found violating the law in relation to cruelty to persons or animals, and to take possession of an animal cruelly treated, in their respective counties, cities, or villages, and deliver it to the proper officers of the society. (81 v. 181.)

SECTION 10076. Fees. For this service and all other services rendered in carrying out the provisions of this chapter, such officers, and the officers and agents of the association, shall be allowed and paid such fees as they are allowed for like services in other cases, which must be charged as costs, and reimbursed to the society by the person convicted. (81 v. 181.)

SECTION 10077. Person guilty liable to damages. A person guilty of cruelty to an animal, the property of another, shall be liable to the owner thereof in damages, in addition to the penalties prescribed by law. (72 v. 129.)

SECTION 10078. Conviction of agent no bar. The conviction of an agent or employe shall not bar an action for cruelty to animals against an employer for allowing a state of facts to exist which will induce cruelty to animals on the part of such agent or employer. (72 v. 129.)

SECTION 10079. Any person may protect animal from neglect. When in order to protect any animal from neglect it is necessary, any person may take possession of it. When an animal is impounded, yarded or confined, and continues without necessary food, water or proper attention for more than fifteen successive hours, as often as is necessary, any person may enter into and upon any place in which the animal is impounded, yarded or confined, and supply it necessary food, water and attention, so long as it there remains, or, if necessary or convenient, may remove such animal, and not be liable to an action for such entry. In all cases the owner or custodian of such animal, if known, immediately shall be notified of such action, by the person taking possession of the animal. If the owner or custodian be unknown, and cannot with reasonable effort be ascertained, such animal shall be held to be an estray, and be dealt with as such. (81 v. 183.)

SECTION 10080. Cost and expenses. The necessary expenses for food and attention given to an animal under the preceding section, may be collected from the owner thereof, and the animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor. (81 v. 183.)

SECTION 10081. May remove child from parents. When an officer or agent of a society organized under this chapter, deems it for the best interest of a child, because of cruelty inflicted upon it, or of its surroundings, that it be removed from the possession and control of the parents or persons having charge thereof, such officer or agent may take possession of the child summarily. (93 v. 296.)

SECTION 10082. Notice to persons having control of child and parents. Such officer or agent shall cause a notice to be personally served upon the person having control or possession of such child, and upon its parent or parents, if within the state, that the society will apply to the probate court of the county in which it is situated, at a time and place named in the notice, for an order as hereinafter set forth. If such person or parents reside or have gone out of the state or if his or her place of residence is unknown so that such notice cannot be served, such officer or agent shall file with the probate court an affidavit stating such fact. Thereupon the clerk of said court shall cause such notice to be published once in a newspaper of general circulation throughout the county, if there be one so published. The notice shall state the nature of the complaint, and the time and place of the hearing, which will be held at least two weeks later than the date of the publication; and a copy of such notice shall be sent by mail to the last known address of such parent, guardian or other person having custody of such child, unless said affidavit shows that a reasonable effort has been made without success to ascertain such address. The certificate of the clerk that such publication has been made or such notice mailed shall be sufficient evidence thereof. Until the time for the hearing arrives, the court shall make such temporary disposition of such child as it may deem best. When said period of two weeks from the time of publication shall have elapsed, said court shall have full jurisdiction to deal with such child as provided by this chapter. (103 v. 905.)

SECTION 10083. Probate judge may make general agent guardian. At the time stated in such notice, if it appears to the satisfaction of the probate judge, that it is for the best interest of such child that possession and control of it be taken from the parent or other person having it, he shall make an order conferring upon the general agent of the society the powers of a guardian as to the child. (93 v. 296.)

SECTION 10084. Guardian to provide home for child. As such guardian, such general agent, with the approval of the probate judge, may provide a suitable home for the child until it reaches the age of majority, or the probate judge is satisfied that its parent or parents are in a position properly to provide and care for it. (93 v. 296.)

HOME FOR THE AGED AND INDIGENT

SECTION 10189. Homes for aged and indigent women. Corporations designated as the widows' home, and asylum for aged and indigent women, in addition to the estates, real, personal, or mixed, which they are otherwise allowed by law to hold, may take by purchase, gift, or devise, and hold, use, dispose of, and convey, in all lawful ways, any estate, real, personal, or mixed, convenient or necessary for the use of the corporation, or for the investment of its funds. No part of such estate, nor of the income thereof, shall be used for any purpose or business other than in providing a suitable asylum, the support and maintenance thereof, and the support and maintenance of such aged and indigent women as are admitted into it under the by-laws thereof. (75 v. 14.)

HOME FOR DEAF AND DUMB

SECTION 10190. Contract for care and maintenance of indigent, aged or infirm deaf and dumb. Any incorporated association organized for the purpose of providing a home for deaf and dumb persons may enter into a contract with the board of county infirmary directors of any county, or with the proper officers of any corporation infirmary, for the care and maintenance at such home of any deaf and dumb person who may be an inmate of such county or corporation infirmary, or who under the laws of the state, may be entitled to admission thereto. In every such case the county or corporation infirmary, during the period the person remains in such home, shall pay to the association, annually, a sum equal to the per capita costs of maintaining inmates in the county or corporation infirmary. (94 v. 369.)

SECTION 10191. State board of charities may order removal of such persons to home. When any deaf and dumb person is maintained in a county or corporation infirmary in this state, who, in the judgment of the board of state charities should be removed to a home organized under the preceding section, such board may order the removal of the person from the infirmary to the home. When such person is removed on the order of the board from an infirmary to the home, then the transportation of the person to the home and his or her maintenance shall be paid by the infirmary directors of the county infirmary or the proper officers of the corporation infirmary as provided in preceding section. (94 v. 369.)

GUARDIANSHIP OF MINORS

SECTION 10918. Appointment of guardian. A minor over the age of fourteen years, may select a guardian, who, if a suitable person, must be appointed. If such minor fails to select a suitable person, an appointment may be made without reference to his or her wishes. The minor shall not select one person to be the guardian of his or her estate only, and another to be the guardian of the person only, unless the court which appoints is of the opinion that the interests of such minor will thereby be promoted. (110 v. 121.)

SECTION 10928. Duties of guardian. Each person appointed guardian of the person and estate of a minor, shall have the custody and tuition of his ward, and the management of such ward's estate during minority, unless removed or discharged from such trust, or the guardianship sooner determines from any of the causes specified in this chapter.

The wife and husband are the joint natural guardians of their minor children and are equally charged with their care, nurture, welfare and education and the care and management of their estates. The wife and husband shall have equal powers, rights and duties, and neither parent has any right paramount to the right of the other concerning the custody of the minor or the control of the services or the earnings of such minor or any other matter affecting the minor; provided that if either parent, to the exclusion of the other, is maintaining and supporting the child, such a parent shall have the paramount right to control the services and earnings of the child. Neither parent shall forcibly take a child from the guardianship of the parent legally entitled to its custody.

In case the wife and husband live apart the court may award the guardianship of a minor to either parent, and the state where the parent having the lawful custody of the minor resides, shall have jurisdiction to determine questions concerning the minor's guardianship. (110 v. 122.)

MARRIAGE OF MINORS

SECTION 11181. Male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage. Any such person under the age of twenty-one years must first obtain the consent of his or her parents, surviving parent or guardian. (110 v. 226.)

SECTION 11181-1. When judge of juvenile court may give consent to marriage contract. Provided, however, that when such person is under age, and has no parents or no legal guardian, the judge of the juvenile court of the county in which the said female resides, may, upon the application of both the contracting parties, an entry being made upon its journal, give consent and approbation in the probate court for the marriage; and provided further that when the condition of the female is such as to imperatively impel the marriage relation by reason of approaching maternity, the matter shall be inquired into by the juvenile court and if one or both the parties are made ward of the court and it is found proper, said court may, with consent of said wards, or their par-

ents, if any are living, or of any guardian, give consent in the probate court, and the probate court may thereupon issue a license therefor, notwithstanding either or both the contracting parties for the marital relation is under the minimum age otherwise prescribed by law, but such license shall not issue until it is found beyond doubt it is a maternity case.

BASTARDY PROCEEDINGS

SECTION 12110. Complaint filed by unmarried women. When an unmarried woman, who has been delivered of or is pregnant with a bastard child, makes a complaint in writing, under oath, before a justice of the peace, or in the juvenile court charging a person with being the father of such child, the judge or justice thereupon shall issue his warrant, directed to any sheriff, police officer or constable of the state, commanding him to pursue and arrest such accused person in any county therein, and bring him forthwith before such judge or justice to answer such complaint. (110 v. 297.)

SECTION 12111. Examination under oath. On the return of the warrant, the justice or judge shall examine the complainant, under oath, in the presence of the accused, respecting the cause of her complaint. The accused shall be permitted also to ask her, when under oath, any question he may think necessary for his defense. (110 v. 297.)

SECTION 12112. Record of examination. The examination of complainant by the judge or justice, the questions of the defendant, and the answers thereto by her must be reduced to writing, in the presence of the judge or justice, and subscribed by her. (110 v. 297.)

SECTION 12113. Hearing continued. On the request of either party, for good cause shown, the judge or justice may continue the examination for a period not to exceed ten days, upon the accused entering into a recognizance to the state, with sufficient surety, in not less than three hundred nor more than one thousand dollars, to appear and answer the complaint, at the time fixed for its hearing, and abide the order of the judge or justice. (110 v. 297.)

SECTION 12114. Settlement of claim. If, during the examination before the justice or judge, or before judgment in the court of common pleas, or juvenile court, the accused pays or secures to be paid to the complainant such amount of money or property as she agrees to receive in full satisfaction of all claims she may have individually against said accused arising out of said complaint, such justice, court, or judge, shall discharge him from custody, upon his paying the costs of prosecution. Such agreement must be made or acknowledged by both parties in the presence of the justice, court, or judge, who thereupon shall enter a memorandum thereof on his docket or cause it to be made upon his journal. Provided, however, that nothing in this section shall be construed as a bar to the prosecution of the accused for failure to support his illegitimate child or children under the provisions of any statute providing for prosecution and punishment for the non-support of legitimate or illegitimate children. (110 v. 297.)

SECTION 12115. Hearing in juvenile or common pleas court. If no such compromise is effected, and the complaint has been filed in the juvenile court, the judge thereof shall fix the time of the trial and in such cases the juvenile court shall have jurisdiction to hear fully and determine such matter, and the judge shall require the accused to furnish bail for his appearance in an amount not less than three hundred nor more than one thousand dollars, and with such security as he may approve. If the complaint has been filed before a justice of the peace, the justice before whom the complaint was made shall bind the accused to appear before the juvenile court or at the next term of the common pleas court, in a recognizance to the state, with sufficient surety, in not less than three hundred nor more than one thousand dollars, to answer the accusation, and abide the order of the court. On neglect or refusal to find such security, the justice or judge shall cause the accused to be committed to the jail of the county, there to be held to answer the complaint. (110 v. 298.)

SECTION 12116. Bail bond required. A person committed to jail for failure to give such recognizance may be discharged from custody by entering into recognizance, with sufficient surety, in not less than three hundred nor more than one thousand dollars, to be taken and approved by a judge of the court in which said cause is pending. (110 v. 298.)

SECTION 12117. Justice shall file transcript and papers with clerk. The justice before whom the examination is had, within thirty days thereafter, shall file with the clerk of the common pleas court of the county a certified transcript of the proceedings, together with the recognizance, if any be taken, and all other papers therein. (70 v. 112.)

SECTION 12118. Continuance of hearing. If, on the day fixed for trial, the complainant has not been delivered, or is unable to attend, or if there be any other sufficient reason therefor, the court may order a continuance of the cause. Such continuance shall operate as a renewal of the recognizance, which shall remain in full force until final judgment. (110 v. 298.)

SECTION 12119. Release of sureties. At any term of the court of common pleas, or at any time before trial in the juvenile court, if the sureties on the recognizance surrender the accused and request to be released therefrom, or if the court deems the recognizance insufficient, it may order a new recognizance to be taken, cancel the first, and commit the accused until a new recognizance is given. (110 v. 298.)

SECTION 12120. Forfeiture of recognizance. If the accused fails to appear at the term of court to which he is recognized, or at the time set for trial in the juvenile court, his recognizance shall be forfeited. If a verdict of guilty be rendered, and the judgment entered thereon as hereinafter provided, the amount of such forfeited recognizance shall be applied in payment of the judgment. (110 v. 298.)

SECTION 12121. Accused to be permitted to defend. Before or on the hearing of the complaint, the court shall permit the accused to appear in person, or by counsel, and make defense. (70 v. 115.)

SECTION 12122. The trial in court. When, before the court to which he is recognized to appear, the accused pleads not guilty of the charge, or, having been recognized, fails to appear, the court shall order

the issue to be tried by a jury. At the trial, the examination before the justice shall be given in evidence by the complainant. (70 v. 113.)

SECTION 12123. Judgment when found guilty. If, in person or by counsel, the accused confesses in court that the accusation is true or, if the jury find him guilty, he shall be adjudged the reputed father of the bastard child and the court shall thereupon adjudge that he pay to the complainant such sum as the court may find to be necessary for her support, maintenance and necessary expenses, caused by pregnancy and child-birth together with costs of prosecution. The court shall require the reputed father to give security to perform such order. If he neglects or refuses to give it, and pay the cost of prosecution, he shall be committed to the jail of the county, there to remain, except as provided in the next following section, until he complies with the order of the court. On the judgment of the juvenile court, execution may issue to the sheriff as in cases of judgments for money in the court of common pleas. Provided, however, that nothing in this section shall be construed as a bar to the prosecution of the accused for failure to support his illegitimate child or children under the provisions of any statute providing for prosecution and punishment for non-support of legitimate or illegitimate children. (110 v. 299.)

SECTION 12124. Law relating to insolvent debtors. After having been confined in prison for three months, for failing to comply with the order provided for in the next preceding section, such putative father shall be entitled to the benefits of the law relating to insolvent debtors, in like manner as persons imprisoned for debt. But before he shall be entitled thereto, he must give at least three days' notice to the complainant or her attorney of his intention to apply therefor. (72 v. 49.)

SECTION 12125. Death of complainant. The death of the mother shall not abate a prosecution instituted by her. A suggestion of the fact shall be made, and the name of her executor or administrator substituted on the record for that of the mother. Such executor or administrator shall not be liable for costs. In such case, the testimony of the mother, reduced to writing before the justice, may be read in evidence. (110 v. 299.)

SECTION 12126. Repealed 1923. (110 v. 300.)

SECTION 12127. Repealed 1923. (110 v. 300.)

SECTION 12128. Justice to furnish transcript on failure of officer to arrest accused. When, from the return of the officer on the warrant, it appears that the accused could not be arrested, upon demand, the justice forthwith shall make a certified transcript of the proceedings before him, including copies of the complaint and warrant, with the return thereon, and deliver them to the complainant, or her agent or attorney. (70 v. 113.)

SECTION 12129. Order of attachment and grounds thereof. Upon filing such transcript in the office of the clerk of the common pleas court in the county in which the justice resides, such clerk shall issue an order of attachment when there is filed in his office an affidavit of the complainant, her agent or attorney, showing:

1. That she is the mother of a bastard child, or pregnant with a child which, if born alive, will be a bastard;
2. That the accused person is the father of such child;
3. The existence of one or more of the following grounds:

That the accused is not a resident of this state; or, has absconded with the intent to defraud complainant; or, has left the county of his residence to avoid the service of a warrant; or, so conceals himself, that a warrant cannot be served upon him. (70 v. 113.)

SECTION 12130. Proceedings under attachment. The order of attachment shall issue without a bond. The amount of property seized thereon shall not exceed one thousand dollars in appraised value. Attachments under this chapter are subject to the provisions of law as to attachments in civil actions, and shall be governed thereby. (70 v. 114.)

SECTION 12131. Service by publication. Upon the return of the order of attachment, service may be had by the publication, for six consecutive weeks, in a newspaper of general circulation in the county wherein the cause is pending, of a notice of the pendency of the proceeding, stating its object, the substance of the complaint, and that an order of attachment has been issued and served therein. In such case, copies of the complaint and order of attachment, with the return thereon forthwith must be deposited in the post-office, directed to the accused at his place of residence, unless it appears to the court, by affidavit, or otherwise, that such residence is unknown to the complainant, and could not, with reasonable diligence be ascertained by her. (70 v. 114.)

SECTION 12132. Personal service of copies of complaint. If the defendant's place of residence is known, personal service of certified copies of the complaint and order of attachment, with the returns thereon, may be made at complainant's election, instead of service by publication. The cause may be heard and determined after the expiration of six weeks from the time of personal service, or the first publication of the notice provided for in the next preceding section. (70 v. 115.)

SECTION 12133. Order of court with respect to attached property. If, on such trial, the accused be adjudged to be the reputed father of the child, the court shall order that unless, within a day to be fixed by it, he pays the sum adjudged against him, with costs of prosecution, so much of the property remaining in the hands of the officer, after applying money from the sale of perishable property, and so much of the personal property, lands and tenements, if any, as are necessary to satisfy such order, be sold, under the same restrictions and regulations as if levied on by execution. The money arising therefrom, with any amount recovered from the garnishee, shall be subject to the order and control of the court, and be applied to satisfy such order in such sums and at such times as the court orders and directs. If there be not enough to satisfy the order, it shall stand, and execution may issue thereon for the residue, as in judgments at law. Any surplus of attached property, or its proceeds, shall be returned to the defendant. (70 v. 115.)

SECTION 12134. Continuance of case after death of complainant. In case of the death or disability of an unmarried woman who would otherwise be eligible to make complaint as provided in this chapter, the

executor, administrator or guardian of such unmarried woman, or a probation officer of the juvenile court or a representative of the division of charities, department of public welfare, acting as guardian ad litem of such unmarried woman, whether she be of age or not, may make and prosecute such complaint, with like effect, as if prosecuted by the mother herself. Such probation officer or representative so acting as guardian shall be entitled to receive any sum paid by way of settlement or under order of court as trustee for the use of such unmarried woman, to be expended in such manner as the court may order. Such executor or administrator shall be entitled to recover upon any bond or security given in accordance with this chapter, for the benefit of the estate of such unmarried woman. (110 v. 299.)

SECTION 12135. Repealed. (110 v. 300.)

HABEAS CORPUS

SECTION 12161. **Who entitled to the writ.** A person unlawfully restrained of his liberty, or a person entitled to the custody of another, of which custody he is unlawfully deprived, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint, or deprivation. (R. S. Sec. 3726.) (29 v. 164.)

SECTION 12162. **Who may grant writ of habeas corpus.** The writ of habeas corpus may be granted by the supreme court, the court of appeals, the common pleas court, the probate court, or by a judge of either. (103 v. 429.)

SECTION 12163. **Jurisdiction for production or discharge of inmate of institution.** If the person restrained of his liberty be an inmate of a benevolent or penal institution of this state, the location of which is fixed by statute, and at the time is in the custody of the officers of such institution, no court or judge shall have jurisdiction to issue or determine a writ of habeas corpus for his production or discharge, save only the courts or judges of the county where such institution is so located. Such writ issued by or from a court or judge of another county to an officer or person in charge at such state institution to compel the production or discharge of an inmate thereof shall be void. (97 v. 318.)

SECTION 12164. **Requisites of application for.** Application for the writ shall be by petition, signed and verified either by the party for whose relief it is intended, or by some person for him, and shall specify:

1. That the person in whose behalf the application is made is imprisoned, or restrained of his liberty;
2. The officer, or name of the person by whom he is so confined or restrained. If both are unknown or uncertain, he may be described by an assumed appellation. The person who is served with the writ shall be deemed the person intended;
3. The place where he is so imprisoned or restrained, if known;
4. A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear. (45 v. 45.)

SECTION 12165. When writ not allowed. If it appears that the person alleged to be restrained of his liberty is in custody of an officer under process issued by a court or magistrate, or by virtue of the judgment or order of a court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or, if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. (32 v. 23.)

SECTION 12166. When the writ must be granted. When a petition therefor is presented, if it appears that the writ ought to issue, a court or judge authorized to grant the writ, must grant it forthwith. (29 v. 164.)

SECTION 12167. Who to issue the writ and when. Upon its allowance, the writ shall be issued forthwith, by the clerk of the court whereof the person who granted it is a judge, under the seal of such court. In case of emergency, such judge may issue the writ under his own hand, and depute any officer or person to serve it. (29 v. 164.)

SECTION 12168. How prisoner may be designated. The person to be produced shall be designated by his name, if known, and if not known, or uncertain, he may be described in any other way so as to make known who is intended. (45 v. 45.)

SECTION 12169. Requisites of the writ in certain cases. In case of confinement, imprisonment or detention by an officer, the writ shall be directed to him, and command him to have the body of such person before the court or judge designated in the writ, at a time and place therein specified. (45 v. 45.)

SECTION 12170. Form of writ when prisoner not in custody of an officer. In case of confinement, imprisonment, or detention by a person not an officer, the writ shall be in the form following:

The State of Ohio,County, ss.:

To the sheriff of our several counties, greeting:

We command you that the body of of by....., of....., imprisoned and restrained of his liberty, as it is said, you take and have before, a judge of ourcourt, or, in case of his absence or disability, before some other judge of the same court, at forthwith to do and receive what our said judge shall then and there consider concerning him in his behalf; and summon the saidthen and there to appear before our said judge, to show the cause of the taking and detention of the said
(Seal) Witnessat
thisday of, in the year
(45 v. 45.)

SECTION 12171. How and when writ may be served. The writ may be served in any county, by the sheriff of that or any other county, or by a person deputed by the court or judge. (45 v. 45.)

SECTION 12172. How executed and returned. The officer or person to whom the writ is directed shall convey the person so imprisoned or detained, and named in the writ, before the judge allowing it or, in

case of his absence or disability, before some other judge of the same court, on the day specified in the writ. He shall make due return of the writ, together with the day and the cause of the caption and detention of such person, according to its command. (29 v. 164.)

SECTION 12173. Writ returned to another judge or court. When the writ is issued by a court in session, if the court has adjourned when the writ is returned, it shall be returned before any judge of the same court. When the writ is returned before one judge, at a time when the court is in session, he may adjourn the case into the court, there to be heard and determined. (45 v. 45.)

SECTION 12174. What shall be stated in the return. When the person to be produced is imprisoned or restrained by an officer, the person who makes the return shall state therein, and in other cases the person in whose custody the prisoner is found shall state, in writing, to the court or judge before whom the writ is returnable, plainly and unequivocally:

1. Whether he has, or has not, the party in his custody or power, or under restraint;

2. If he has the party in his custody or power, or under restraint, he shall set forth, at large, the authority, and the true and whole cause, of such imprisonment and restraint, with a copy of the writ, warrant, or other process, if any, upon which the party is detained;

3. If he has had the party in his custody or power, or under restraint, and has transferred such custody or restraint to another, he shall state, particularly, to whom, at what time for what cause, and by what authority, such transfer was made. (45 v. 45.)

SECTION 12175. The return must be signed and sworn to. The return or statement shall be signed by the person who makes it. It shall also be sworn to by him, unless he is a sworn public officer, and makes the return in his official capacity. (45 v. 45.)

SECTION 12176. Adjournment of cause. The court or judge to whom the writ is returned, or the court into which it is adjourned, for good cause shown, may continue the cause, and, in that event, shall make such order for the safekeeping of the person imprisoned or detained as the nature of the case requires. (45 v. 45.)

SECTION 12177. When prisoner shall be discharged. When the judge has examined into the cause of caption and detention of the person so brought before him, and is satisfied that he is unlawfully imprisoned or detained, he shall forthwith discharge him from confinement. On such examination, the judge may disregard matters of form or technicalities in any mittimus or order of commitment by a court or officer, authorized by law to commit. (78 v. 113.)

SECTION 12178. When the prisoner may be committed, or let to bail. When the person is confined or detained in a legal manner, on a charge of having committed a crime or offense which is bailable, at his discretion, the judge shall recommit him, or let him to bail. If he be let to bail, the judge shall require him to enter into a recognizance, with sufficient surety, in such sum as he deems reasonable, the circumstances of

the prisoner and the nature of the offense charged, considered, conditioned for his appearance at the court where the offense is properly cognizable. The judge forthwith shall certify his proceedings, together with any recognizance, to the proper court. If the person charged fails to give such recognizance he shall be committed to prison by the judge. (29 v. 164.)

SECTION 12179. When prisoner must be committed. If it appear that the prisoner was committed by a judge or justice, and is plainly and specifically charged in the warrant of commitment with a felony the punishment whereof is capital, he shall not be removed, discharged, or bailed. (29 v. 164.)

SECTION 12180. When the return is evidence, and when only a plea. If it appears that the prisoner is in custody under a warrant or commitment in pursuance of law, the return shall be prima facie evidence of the cause of detention. If he is restrained of his liberty by alleged private authority, the return of the writ shall be considered only as a plea of the facts therein set forth, and the party claiming the custody shall be held to make proof of such facts. Upon the final disposition of a case, the court or judge shall make such order as to costs as it requires. (45 v. 45.)

SECTION 12181. Penalty upon clerk for refusal to issue the writ. If a clerk of a court refuses to issue the writ, after allowance thereof and demand therefor, he shall forfeit to the party aggrieved the sum of five hundred dollars. (29 v. 164.)

SECTION 12182. Penalty for disobeying the writ. A person to whom a writ is directed, who neglects or refuses to obey or make return of it according to the command thereof, or makes a false return, or who, upon demand made by the prisoner, or any person on his behalf, refuses to deliver to the person demanding, within six hours after demand therefor, a true copy of the warrant of commitment and detainer of the prisoner, for the first offense, shall forfeit to the party aggrieved two hundred dollars, and, for the second offense, four hundred dollars, and if an officer, shall be incapable of holding his office. (29 v. 164.)

SECTION 12183. Persons at large upon the writ not to be again imprisoned. A person who is set at large upon a writ shall not be again imprisoned for the same offense, unless by the legal order or process of the court wherein he is bound by recognizance to appear, or other court having jurisdiction of the cause or offense. A person who knowingly, contrary to the provisions of this chapter, recommits or imprisons, or causes to be recommitted or imprisoned, for the same offense, or pretended offense, a person so set at large, or knowingly aids or assists therein, shall forfeit to the party aggrieved five hundred dollars, notwithstanding any colorable pretense or variation in the warrant or commitment. (29 v. 164.)

SECTION 12184. Prisoner not to be removed from custody of one officer to another, unless, etc. A person committed to prison, or in custody of an officer for a criminal matter, shall not be removed therefrom into the custody of another officer, unless by legal process, or the

prisoner be delivered to an inferior officer to carry to jail, or, by order of the proper court, be removed from one place to another within the state for trial, or in case of fire, infection, or other necessity. A person who, after such commitment, makes, signs, or countersigns a warrant for such removal contrary to this section, shall forfeit to the party aggrieved five hundred dollars. (29 v. 164.)

SECTION 12185. No person to be sent out of state. No person shall be sent prisoner to a place out of this state for a crime or offense committed within it. (65 v. 165.)

SECTION 12186. A person so transported may have an action. A person so imprisoned may maintain an action for false imprisonment, against the person by whom he was so imprisoned or transported, and against a person who contrives, writes, signs, seals, or countersigns a writing for such imprisonment or transportation, or aids or assists in it, or against any of them. (65 v. 165.)

SECTION 12187. Record of writs; error, etc. The proceedings upon a writ of habeas corpus must be recorded by the clerks respectively, and may be reviewed on error as in other cases. (45 v. 45.)

SECTION 12188. Actions for penalties, and limitations. The penalties in this chapter provided may be recovered by the party aggrieved, his executors or administrators, against the offender, his executors or administrators, by civil action in a court having cognizance thereof. No action shall be brought for any offense against the provisions of this chapter after two years after the offense is committed, except in cases of imprisonment of the party aggrieved, when action may be brought within two years after his delivery out of prison, or after his decease, if he die in prison. (29 v. 164.)

SECTION 12189. Fees and costs. The fees of officers and witnesses shall be taxed by the judge, on return of the proceedings on the writ, and collected as a part of the original costs in the case. When the prisoner is discharged, the costs shall be taxed to the state, and paid out of the county treasury, upon the warrant of the county auditor. No officer or person shall demand payment in advance of any fees which he is entitled to by virtue of the proceedings, when the writ is demanded or issued for the discharge from custody of a person confined under color of proceedings in a criminal case. When a person in custody by virtue or under color of proceedings in a civil case is discharged, costs shall be taxed against the party at whose instance he was so in custody. If he be remanded to custody, costs shall be taxed against him. (45 v. 45.)

SECTION 12426. Abducting inmates from state institutions. Whoever abducts, an inmate of a benevolent, penal or reformatory institution shall be imprisoned in the penitentiary not less than one year nor more than five years. (97 v. 306.)

SECTION 12463. Purchasing clothing of inmates of public institutions. Whoever, with intent to defraud, purchases, accepts as a gift or secures by barter, trade or otherwise, an article of clothing from an inmate of a state benevolent, penal or reformatory institution, issued to

such inmate by an officer of such institution for his use, or, with such intent, secures any other article belonging to such institution or to an inmate thereof, shall be fined not less than double the value of such article and in no case less than twenty-five dollars. (89 v. 40, 97 v. 307.)

OFFENSES AGAINST MINORS

(See Sections 12960-12992.)

SECTION 12423-1. Assault upon female child under fourteen years; penalty. Whoever, being a male person over the age of eighteen years shall assault a female child under the age of fourteen years, and shall wilfully take indecent and improper liberties with the person of such child, without committing or intending to commit the crime of rape upon such child, or wilfully make improper exposures of his person in the presence of such child, shall be deemed guilty of felonious assault, and on conviction thereof shall be fined not more than one thousand dollars, or imprisoned in the penitentiary not more than ten years, or both such fine and imprisonment, in the discretion of the court. (109 v. 45.)

SECTION 12428. Torturing or unlawfully punishing another. Whoever tortures, torments, cruelly or unlawfully punishes another, or wilfully and negligently deprives him of necessary food, clothing or shelter, shall be fined not less than ten dollars nor more than two hundred dollars, or imprisoned not more than six months, or both. (95 v. 273.)

SECTION 12655. Nuisances when near state institutions. Whoever carries on the business of slaughtering, tallow chandlery or manufacturing glue, soap, starch or other article, the manufacture of which is productive of unwholesome or noxious odors in a building or place within one mile of a benevolent, penal or reformatory institution supported wholly or in part by the state, or erects or operates within one hundred and twenty rods of such benevolent institution or within four hundred feet of the administration department of such penal or reformatory institution, a rolling mill, blast furnace, nail factory, copper smelting works, petroleum oil refinery or other works which may generate unwholesome or noxious odors or make loud noises, or which may annoy or endanger the health or prevent the recovery of the inmates of such institution, shall be fined not less than one hundred dollars nor more than five hundred dollars, and each week such business is so conducted, or works so operated, shall constitute a separate offense. (95 v. 592.)

DECEASED INMATES

(See Sections 3496; 9984-9989)

SECTION 12689. Refusal to deliver corpse. Whoever, being a superintendent of a city hospital, city or county infirmary, workhouse, asylum for the insane, or other charitable institution founded and supported in whole or in part at public expense, coroner, infirmary director, sheriff, or township trustee, fails to deliver a body of a deceased person when applied for, in conformity to law, or charges, receives or accepts money

or other valuable consideration for such delivery, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned not more than six months. (93 v. 84.)

SECTION 12692. Detention of corpse. Whoever detains a corpse, claimed by relatives or friends for interment at their expense, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned not more than six months. (93 v. 84.)

BUTTER AND CHEESE

SECTION 12754. Use of imitation butter or cheese at public institutions. Whoever in a charitable or penal institution of the state, having charge of the purchase of butter or cheese, knowingly purchases any butter or cheese which is not made wholly from pure milk or cream, salt and harmless coloring matter, and permits it to be used in such institution, shall be fined not less than fifty dollars nor more than two hundred dollars, and, for each subsequent offense, shall be fined not less than one hundred dollars nor more than five hundred dollars and imprisoned not less than ten days nor more than ninety days. (83 v. 178.)

INFANTILE BLINDNESS

(See Sections 1248-1 et. seq.)

SECTION 12787. Failure to report infant with diseased eyes. Whoever, being a midwife, nurse or relative in charge of an infant less than ten days old, fails, within six hours after the appearance thereof, to report in writing to the physician in attendance upon the family, or if there be no such physician, to a health officer of the city, village or township in which such infant is living, or, in case there be no such officer, to a practitioner of medicine legally qualified to practice, that such infant's eye is inflamed or swollen or shows an unnatural discharge, if that be the fact, shall be fined not less than five dollars nor more than one hundred dollars or imprisoned not less than thirty days nor more than six months, or both. (91 v. 75.)

SECTION 12789. Violating law relating to maternity boarding-houses and lying-in hospitals. Whoever violates any provisions of law relating to the establishment, maintenance and inspection of maternity boarding-houses and lying-in hospitals, shall be fined not more than three hundred dollars. *See Sections 6259 to 6277.* (101 v. 121.)

SECTION 12789-1. Violating law relative to placing of children. Whoever violates any of the provisions of section 1352-12, 1352-13 or 1352-14 of the General Code, shall be fined not more than three hundred dollars or imprisoned not more than three months, or both fined and imprisoned. Each act of violation shall be considered a separate offense and it shall be the duty of the division of charities, department of public welfare to enforce the provisions of this act. (110 v. 267.)

PENAL INSTITUTIONS—MISCELLANEOUS PROVISIONS

SECTION 12833. Aiding or inducing convicts to escape. Whoever aids, induces or attempts to induce a convict to escape or attempt to escape from the penitentiary, shall be imprisoned in the penitentiary for a term not exceeding that for which such convict was committed; and whoever aids or assists a person, lawfully confined in a jail or other place of confinement, to escape or attempt to escape therefrom, shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned not more than ninety days, or both. (68 v. 9.)

SECTION 12834. Influencing officer to permit an escape. Whoever, by persuasion, artifice or other means, except by bribery or corrupt promises, attempts to influence an officer or other person charged with the custody of a prisoner accused or convicted of a criminal offense, to permit such prisoner to escape, shall be fined not more than two hundred dollars and imprisoned not more than thirty days. (R. S. Sec. 6904.)

SECTION 12835. Conveying articles into prison to aid an escape. Whoever conveys or attempts to convey into the penitentiary, a jail or other place of confinement, anything to effect the escape of a prisoner lawfully detained therein for a felony and with intent thereby to facilitate the escape of such prisoner, shall be imprisoned in the penitentiary not less than two years nor more than three years, or, if he be detained for a misdemeanor, shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned not more than three months, or both. (97 v. 120.)

SECTION 12836. Conveying intoxicating liquors or drugs into prison. Whoever conveys or attempts to convey into the penitentiary, a jail or other place of confinement where a person is lawfully detained, intoxicating liquor or a stimulating sedative or narcotic medicine, such as cocaine, opium, chloral, chloroform or ether, except in accordance with the rules of such penitentiary, jail or other place of confinement, and upon written prescription of the regular appointed physician thereof, shall be fined not less than ten dollars nor more than one hundred dollars or imprisoned not more than one year, or both. (97 v. 120.)

SECTION 12837. Conveying letters, etc., into or from prison. Whoever conveys or attempts to convey into the penitentiary or a jail, contrary to the rules of such prison a letter or other missive intended for a prisoner lawfully confined therein or conveys from within the enclosure to the outside of the penitentiary or jail, contrary to the rules of such prison, a letter or other missive, written or given by a prisoner lawfully detained therein, unless the warden of the penitentiary or the sheriff having charge of such jail has given his written consent, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned not more than ninety days, or both, (97 v. 120.)

SECTION 12838. Enticing inmates to escape from state institutions; harboring fugitive inmates. Whoever persuades, induces, entices, or attempts to persuade, induce or entice an inmate of a state benevolent, penal or reformatory institution to escape therefrom, or conceals or harbors such inmate, knowing him to have escaped therefrom,

shall be fined not less than twenty dollars nor more than one hundred dollars. (97 v. 307.)

SECTION 12838-1. Soliciting money or thing of value from person confined in penal institution, unlawful. Whoever, directly or indirectly, procures, solicits with intent to procure, or extorts any money or other thing of value of any person, or persons, confined in any penitentiary, jail, workhouse, calaboose, or other penal or correctional institution within this state, or in the custody of any officer of the law, or from any other person or persons, for or in behalf of one so confined or in custody, upon or by virtue of any offer, promise or agreement, verbal or written, to secure, or attempt to secure for such person or persons so confined, a release or discharge therefrom, or a pardon, parole or modification of sentence, unless originally requested so to do by such person or persons so confined, shall be fined not exceeding five hundred dollars, or imprisoned in the county jail or workhouse not exceeding six months, or both. (103 v. 93.)

SECTION 12839. Trespassing upon grounds of state institutions; communicating with inmates. Whoever trespasses or loiters upon the grounds of a state benevolent, penal or reformatory institution, or communicates or attempts to communicate by signal, signs, writing or otherwise with an inmate of such institution, or conveys, or assists in establishing communication between an inmate of such institution and a person outside thereof, except as authorized by the rules and regulations of the board of managers or trustees thereof, shall be fined not more than ten dollars or imprisoned not more than ten days, or both. (97 v. 307.)

SECTION 12849. Jailer permitting jail to become unclean; dealing strictly with prisoner. Whoever, being a sheriff, jailer or other person having the care and custody of a jail, permits it to become foul or unclean so that the health of a prisoner may be endangered, or permits a prisoner to be dealt with less strictly than intended by his sentence, shall be fined not more than one hundred dollars. (29 v. 144.)

SECTION 12856-1. Penalty for depriving accused persons of counsel. Whoever, having charge of a county jail, or a municipal jail, prison or station-house, in which jail, prison or station-house, any person suspected or accused or charged with the commission of a crime or offense, is imprisoned or confined, refuses, upon the request of such person, or any relative of such person, to permit such person to consult or in any way prevents or attempts to prevent such person, from consulting privately at any reasonable and proper hour, with any attorney-at-law, duly admitted to practice in this state, for the purpose of enabling such person to employ such attorney-at-law, or with any attorney-at-law duly admitted to practice in this state and employed by such person, shall be guilty of a misdemeanor, and shall, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars. (106 v. 208.)

SECTION 12886. Neglect by jailer. Whoever, having charge of a county jail, neglects or refuses to obey or conform to a rule or regulation lawfully prescribed by the court of common pleas for the man-

agement and regulation of such jail, or omits or neglects to perform a lawful duty in respect thereto, shall be fined not less than five dollars nor more than one hundred dollars. (41 v. 74.)

OFFICIALS OF O. S. & S. O. HOME

PENALTY FOR CONVERTING PROPERTY TO OWN USE

SECTION 12884. **Officials at soldiers' orphans' home converting or concealing property.** Whoever, being a trustee, superintendent, clerk, physician, or matron at the Ohio soldiers' and sailors' orphans' home, conceals or converts to his or her own use, money or other property of the value of thirty-five dollars or more belonging to such institution or to the state, or cheats or attempts to cheat or collude with other persons to cheat or defraud such institution or the state, shall be imprisoned in the penitentiary not less than one year nor more than ten years. (76 v. 171.)

CONTRACTS

PUBLIC EMPLOYEE MAY NOT BE INTERESTED IN

SECTION 12910. **Officer or agent interested in contracts.** Whoever, holding an office of trust or profit by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is connected, shall be imprisoned in the penitentiary not less than one year nor more than ten years. (R. S. Sec. 6969.) (94 v. 391.)

SECTION 12911. **Same as to other contracts.** Whoever, holding an office of trust or profit, by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is not connected, and the amount of such contract exceeds the sum of fifty dollars, unless such contract is let on bids duly advertised as provided by law, shall be imprisoned in the penitentiary not less than one year nor more than ten years. (94 v. 391.)

SECTION 12913. **Official of soldiers' home interested in contract.** Whoever, being a trustee, superintendent, clerk, physician or matron at the Ohio soldiers' and sailors' orphans' home, is interested in a contract for the purchase of building materials, furniture, supplies or provisions for the use of the institution, or for a building or improvement thereon, shall be imprisoned in the penitentiary at hard labor not less than one year nor more than ten years. (76 v. 171.)

SECTION 12923. **State officials creating deficiencies.** Whoever, being a trustee, manager, director, or superintendent of a public institution of the state, or an officer of a department of the state, creates a defi-

ciency, incurs a liability or expends a greater sum of money than is appropriated by the general assembly for the use of such public institution or department in any one year, shall be individually liable therefor, and shall be fined not more than one thousand dollars and for each subsequent offense shall be fined two thousand dollars. (86 v. 76.)

SECTION 12933. Refusing to permit inspection of certain institutions. Whoever refuses to permit, or interferes with the inspection of a public or private hospital, reformatory, house of detention, private asylum, or institution exercising or pretending to exercise a reformatory or correctional influence over its inmates, by the county commissioners of the county in which such institution is situated or the board of health of the municipality in which it is situated, shall be fined not less than twenty-five dollars or imprisoned for six months, or both, and for each subsequent offense shall be fined not less than one hundred dollars and imprisoned for six months. (92 v. 212.)

OFFENSES AGAINST MINORS

SECTION 12960. Buying intoxicating liquors for minors. Whoever buys intoxicating liquor for, or furnishes it to a minor to be drunk by him, unless given by a physician in the regular line of practice, shall be fined not less than ten dollars nor more than one hundred dollars or imprisoned not less than ten days nor more than thirty days, or both. (63 v. 149.)

SECTION 12961. Selling liquor to minors. Whoever sells intoxicating liquor to a minor, except on the written order of his parent, guardian or family physician, shall be fined not less than twenty-five dollars nor more than one hundred dollars and imprisoned not less than five days nor more than thirty days. (83 v. 161.)

SECTION 12962. Permitting minors to play pool or billiards. Whoever, being the owner or keeper of a billiard saloon, or the owner or keeper of a billiard table at any other public place, permits a minor under the age of eighteen years to play billiards or pool, or be and remain in such saloon or other public place, shall be fined twenty dollars, and for each subsequent offense shall be fined fifty dollars. (83 v. 202.)

SECTION 12963. Billiard table liable. For the fine and costs in a prosecution under the next preceding section, the billiard table and fixtures shall be liable on execution without exemption. (83 v. 202.)

SECTION 12964. Enticing minor to play for money, etc. Whoever entices a minor to engage in a game for money or other valuable thing, or makes a wager with a minor upon the result of a game, or permits a minor to play a slot machine, or other gambling device for wares or merchandise or any other thing of value, shall be fined not less than fifty dollars nor more than two hundred dollars or imprisoned not less than three months nor more than one year. (103 v. 906.)

SECTION 12965. Selling, giving or furnishing cigarettes, etc., cigar or tobacco to minor. Whoever sells, gives or furnishes to a person under eighteen years of age a cigarette, cigarette wrapper or substitute for

either, or a cigar or tobacco, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned not less than two days nor more than thirty days, or both, and for each subsequent offense, shall be fined not less than fifty dollars nor more than three hundred dollars and imprisoned not less than five days nor more than sixty days. (101 v. 133.)

SECTION 12966. Unlawful to sell toy pistols to minors under sixteen years. Whoever sells or exhibits for sale, to a minor under sixteen years of age, a pistol manufactured of a metallic or hard substance, commonly known as a "toy pistol" or air-gun, or any form of explosive gun, shall be fined not less than ten dollars nor more than fifty dollars or imprisoned not less than ten days nor more than twenty days, or both, and be liable in damages to any person injured by such sale. (103 v. 906.)

SECTION 12967. Selling fire-arms or air-guns to minors under seventeen years. Whoever sells, barter, furnishes or gives to a minor under the age of seventeen years, an air-gun, musket, rifle, shotgun, revolver, pistol or other fire-arm, or ammunition therefor, or, being the owner or having charge or control thereof knowingly permits it to be used by a minor under such age, shall be fined not more than one hundred dollars or imprisoned in jail not more than thirty days, or both. (103 v. 906.)

SECTION 12968. Employing children under fourteen years in shows, etc. Whoever takes, receives, hires, employes, uses, exhibits, sells, apprentices, gives away, lets out or otherwise disposes of a child, under the age of fourteen years for or in the vocation, occupation, service or purpose of singing, playing on musical instruments, rope or wire walking, dancing, taking any part in, or appearing in connection with a moving picture exhibition or performance given in a theatre or place of public amusement, begging or peddling or as a gymnast, contortionist, rider or acrobat, or for an obscene, indecent or immoral purpose, exhibition or practice, or for or in a business exhibition or vocation injurious to the health or dangerous to the life or limb of such child or causes, procures or encourages such child to engage therein, or causes or permits such child to suffer or inflicts upon it unjustifiable physical pain or mental suffering, or has such child in custody for any of such purposes, shall be fined not more than two hundred dollars or imprisoned not more than six months, or both. (103 v. 906.)

SECTION 12969. Exceptions. Section 12968 of the General Code shall not apply to or affect the taking part without remuneration of such child with the consent of its parents or guardian in a church, or any school or academy, or at a concert or entertainment given for charitable purposes, or by a church or any school, academy, charitable, eleemosynary or religious institution. (102 v. 413.)

SECTION 12970. Torturing or neglecting children. Whoever, having the control of or being the parent or guardian of a child under the age of sixteen years, wilfully abandons such child, or tortures, torments, or cruelly or unlawfully punishes it, or wilfully, unlawfully or negligently fails to furnish it necessary and proper food, clothing or shelter, shall be

fined not less than ten dollars nor more than two hundred dollars or imprisoned not more than six months, or both. *See Sections 1655 and 13008.* (95 v. 273.)

SECTION 12970-1. Workhouse provisions; payments to trustee for child. When such person is convicted, sentenced and confined in a workhouse, the county form which he is so convicted, sentenced and confined, upon the warrant of the county auditor of such county, and out of the general revenue fund thereof, shall pay monthly fifty cents (50c) for each day he is so confined, to a trustee to be appointed by the court imposing such sentence, to be expended for the maintenance of such child or children under sixteen years of age. (103 v. 907.)

SECTION 12970-2. Humane society may be appointed trustee. Any humane society incorporated and existing under the laws of this state, or any other suitable person, being willing to render such services without compensation, may be appointed by the court as such trustee for the benefit of such child or children. The court may require such trustee to enter into a good and sufficient bond for the faithful performance of the duties so imposed. When a person is sentenced and confined in a workhouse as herein provided, the name and postoffice address of the trustees so appointed by the court shall appear in the mittimus. (101 v. 233.)

SECTION 12971. Prosecution under two preceding sections. If prosecution under either the next preceding section or section twelve thousand nine hundred and sixty-eight, is instituted by an incorporated society for the prevention of cruelty to animals, the fines collected thereby shall be paid to such society; otherwise fines collected under such sections shall be paid to any society so incorporated. (81 v. 184.)

SECTION 12972. Preventing the employment of children in certain occupations. Whoever wilfully causes or permits the life or limb of a child under the age of sixteen years to be endangered, its health to be injured or its morals to become depraved, from and while actually in his employ, or wilfully permits such child to be placed in such a position or engage in employment whereby its life or limb is in danger, its health likely to be injured or its morals likely to be impaired or depraved shall be fined not less than ten dollars nor more than fifty dollars or imprisoned not less than thirty days nor more than ninety days. (87 v. 161.)

SECTION 12973. State inspector of workshops. The state inspector of workshops and factories shall enforce the provisions of the next preceding section. (87 v. 161.)

SECTION 12974. Failure to send child to school; penalty. Whoever being a parent, guardian or other person having care of a child of compulsory school age violates any of the provisions of sections 7762, 7762-5, 7763, 7765-1 7773 or 7773-1, General Code, shall upon conviction be fined not less than five dollars and not more than twenty dollars, or the court may in its discretion require the person so convicted to give bond in the sum of one hundred dollars with sureties to the approval of the court, conditioned that he will cause the child under his charge to attend upon instruction as provided by law, and remain as a pupil in the school or class during the term prescribed by law; and upon the failure or refusal

of any such parent, guardian or other person to pay said fine and costs or furnish said bond according to the order of the court, then said parents, guardian or other person shall be imprisoned in the county jail not less than ten days nor more than thirty days. (109 v. 396.)

SECTION 12975. Violation of other statutes. Nothing in the preceding section shall be construed as relieving from prosecution and conviction any such parent, guardian or other person upon further violation of the statutes named therein; nor shall forfeiture of the bond named therein, if required, be construed as relieving such person from prosecution and conviction upon further violation of the statutes named therein. (109 v. 396.)

SECTION 12976. Employing minors during school session requirements. Whoever employs a minor under eighteen years of age before exacting from such minor the age and schooling certificate, or age and pre-employment card required by law, or fails to keep such certificate or card on file, or fails to return to the superintendent of schools or his authorized representative such certificate or card or give notice of the non-use thereof within two days from such minor's withdrawal or dismissal from his service, or continues to employ a minor under eighteen years of age after his age and schooling certificate or card is void, or refuses to permit an attendance officer or other person mentioned in section 7765, General Code, to examine such certificate or card, or refuses to permit such attendance officer or person to observe the conditions under which minors under eighteen years of age are employed, or refuses to permit under reasonable regulations such attendance officer or persons to make inquiry of minors or persons supposed by such officer or persons to be under eighteen years of age in regard to matters pertaining to their age, employment or schooling, shall upon conviction be fined not less than twenty dollars, nor more than fifty dollars. (109 v. 397.)

SECTION 12977. Violations by officer or agent of corporation. Whoever, being an officer or agent of a corporation, participates or acquiesces in any violation of law relating to compulsory education or employment of minors shall upon conviction be fined not less than twenty dollars, nor more than fifty dollars. (109 v. 397.)

SECTION 12978. Failure to produce certificate prima facie evidence of illegal employment. Failure to produce for lawful inspection the age and schooling certificate or card as provided by law or the record as provided in section 12998, General Code, shall be prima facie evidence of the illegal employment or service of the child whose certificate or card is not so produced or whose record is not so correctly kept. (109 v. 397.)

SECTION 12979. Neglect or failure to issue certificate; penalty. Any person charged by law with issuance of age and schooling certificates who fails or refuses upon request to issue such certificate or age and pre-employment card or overage certificate in conformity to law, or who issues such certificate or age and pre-employment card or overage certificate contrary to any of the provisions of the laws relating to the

issuance of such certificates or cards, shall upon conviction be fined not less than twenty nor more than fifty dollars. (109 v. 397.)

SECTION 12980. School officer neglecting or refusing to perform duty; penalty. Whoever, being an officer of a board of education or a superintendent, principal or teacher of a public, private or parochial school or a juvenile examiner refuses or neglects to perform a duty imposed upon him by the laws relating to compulsory education and the issuance of age and schooling certificates or declines to give the information necessary for the execution of these laws shall upon conviction be fined not less than twenty nor more than fifty dollars. Continued refusals to perform the duties or give the information shall constitute additional violations of the statutes relating to compulsory education and the issuance of age and schooling certificates. (109 v. 397.)

SECTION 12981. Courts having jurisdiction. Mayors, justices of the peace, police judges and judges of juvenile courts shall have final jurisdiction to try the offenses described in the seven next preceding sections. When complaint is made against a corporation for violating any provision of such sections, summons shall be served, appearance made, or plea entered as provided by law in cases when an indictment is presented against a corporation, except in complaints before magistrates, when service may be made by the constable. In other cases process shall be served and proceedings had as in cases of misdemeanor. (109 v. 398.)

SECTION 12982. Disposition of fines. Fines collected under the provisions of the eight sections next preceding shall be paid into the funds of the city, exempted village, village or rural school district in which the offense was committed. (109 v. 398.)

SECTION 12982-1. Who shall file complaint. The attendance officer or any inspector of the industrial commission of Ohio shall when a violation of section 12976, 12977, 12978, 12979 or 12980, General Code, comes to his attention make complaint against the person or employer violating it in any court having jurisdiction. (109 v. 398.)

SECTION 12983. Permitting child to leave jurisdiction of court; penalty. Any parent, guardian or other person in charge of a child of compulsory school age as defined in section 7763, General Code, who after a complaint made against such parent, guardian or other person in charge of the child or against the child himself, under a law relating to compulsory education, before a court of competent jurisdiction, and before such complaint is heard causes or permits such child to leave the territory under the jurisdiction of the court, shall upon conviction be fined not less than fifty nor more than two hundred dollars or be imprisoned in jail for not less than ten nor more than sixty days or both. (109 v. 398.)

SECTION 12984. Penalty for subsequent violation. Whoever having been convicted of a violation of any provision of law relating to compulsory education or the employment of minors again violates such provision shall upon conviction, unless a penalty for second or subsequent violation of the given provision is elsewhere specifically provided by law, be punished for the second offense by a fine of not less than twenty nor

more than two hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third or other subsequent offense by a fine of not less than thirty nor more than five hundred dollars or by imprisonment for not more than sixty days or by both such fine and imprisonment. (109 v. 398.)

SECTION 12985. Trial by jury in such cases. On complaint before a mayor, justice of the peace or police judge of such a second or further violation of a law relating to compulsory education or the employment of minors, if a trial by jury is not waived, a jury shall be chosen and proceedings had therein as provided by law in cases of violation of the laws for the prevention of cruelty to animals and children. (109 v. 398.)

SECTION 12986. Costs in certain prosecutions. No person or officer instituting proceedings under any of the thirteen sections next preceding shall be required to file or give security for the costs. If a defendant is acquitted or if convicted and committed to jail in default of payment of fine and costs, the justice, mayor, police judge or judge of the juvenile court before whom such case was brought shall certify such costs to the county auditor, who shall examine the amount and if necessary correct it, and issue his warrant on the county treasurer in favor of the respective persons to whom such costs are due for the amount due to each. (109 v. 399.)

SECTION 12987. False statement as to age when seeking employment; penalty. Any person who when engaging to be employed or seeking employment states falsely his age for the purpose of evading any law relating to the employment of minors or females under the age of twenty-one years shall upon conviction be punished by a fine of not less than twenty nor more than fifty dollars or by imprisonment for not more than thirty days; provided, however, that if the minor is under eighteen years of age a charge shall be brought against him in the juvenile court as a delinquent child. (109 v. 399.)

SECTION 12988. False oath as to being 21 years of age; penalty. If a person between eighteen and twenty-one years of age falsely makes oath that he is twenty-one years of age or above when engaging to be employed or seeking employment the employer shall be exempt from the operation of section 6245-2, General Code, in respect to that person. (109 v. 399.)

SECTION 12989. Withholding wages due a minor. Whoever, being a person, officer or agent of a company or corporation doing business in this state, retains or withholds from a minor in his employ the wages or compensation, or a part thereof agreed to be paid and due such minor for work performed or services rendered, because of presumed negligence or failure to comply with rules, breakage of machinery or alleged incompetence to produce work or perform labor according to any standard of merit, shall be fined not more than two hundred dollars or imprisoned in the county jail not more than six months, or both. (90 v. 55.)

SECTION 12990. Guarantee to secure employment for minor. Whoever, being a person, officer or agent of a company or corporation, re-

ceives a guarantee, bonus money deposits or other form of security to obtain or secure employment for a minor or to insure faithful performance of labor, guarantee strict observance of rules or make good losses which may be charged to such minor's incompetence, negligence or inability, shall be fined not more than two hundred dollars or imprisoned in the county jail not more than six months, or both. (90 v. 56.)

SECTION 12991. Agreement as to employment of minor. Whoever, being a person, officer or agent of a company or corporation, gives employment to a minor, without agreeing with him as to the wages or compensation he shall receive for each day, week, month or year, or per piece, for work performed and with furnishing such minor with written evidence of such agreement and on or before each pay-day, with a statement of the earnings due and the amount thereof to be paid to him or changes the wages or compensation of a minor without giving him notice thereof at least twenty-four hours previous to its going into effect, when a written agreement, thereof shall be given to such minor as for an original employment, shall be fined not more than two hundred dollars or imprisoned in the county jail not more than six months, or both. (95 v. 59.)

SECTION 12992. Preceding sections enforced. The inspector of workshops and factories shall enforce the provisions of the next three preceding sections. (90 v. 56.)

SECTION 12993. Regulating the employment of minors in factories, etc. No child under sixteen years of age shall be employed, permitted or suffered to work in or about any (1) mill, (2) factory, (3) workshop, (4) oil well or pumping station, (5) cannery or bottling or preserving establishment, (6) mercantile or mechanical establishment, (7) tenement house, (8) garment making or dress making or millinery establishment or working room, (9) store, (10) office, (11) office building, (12) laboratory, (13) restaurant, (14) hotel, boarding house, or apartment house, (15) bakery, (16) barber shop, (17) bootblack stand or establishment, (18) public stable, (19) garage, (20) laundry, (21) place of amusement, (22) club, (23) or as a driver or chauffeur, (24) or in any coal yard or brick, lumber, or building material yard, (25) or in the construction or repair of buildings, (26) or in the transportation of merchandise; nor any boy under sixteen or female under twenty-one years of age in the personal delivery of messages, but except as to the personal delivery of messages by females under twenty-one years of age this section shall not apply to holders of age and schooling certificates under sections 7766-6, 7766-9 or 7770-3, General Code. (109 v. 399.)

SECTION 12993-1. Employment of child during school hours, unlawful, when. It shall be unlawful for any person, firm or corporation to employ, permit, or suffer to work any child who is required by law to be in attendance at school in any business or occupation whatever during the hours when the public schools of the district in which the child resides, including the school or class to which the child is assigned, are in session. (109 v. 399.)

SECTION 12994 Repealed. (109 v. 402.)

SECTION 12995. Damage on failure to return certificate on termination of employment. Upon failure on the part of an employer to return an age and schooling certificate or give notice of the non-use thereof within two days after the termination of the employment of a child, the child terminating his employment shall be entitled to recover from such employer in a civil action as damages an amount equal to the wages which he would have earned had he continued in said employment for the period between such termination thereof and the time when such certificate is so returned or said notice given. If such a child at any time fails to appear for work without explanation, the employment shall be deemed within the purposes of this section to have terminated upon the expiration of two days after his so failing to appear. (109 v. 400.)

SECTION 12996. Regulating the hours of employment of minors and females in establishments, etc. No boy under the age of sixteen and no girl under the age of eighteen years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in section 12993 (1) for more than six days in any one week, (2) or more than forty-eight hours in any one week, (3) nor more than eight hours in any one day, (4) or before the hour of seven o'clock in the morning or after the hour of six o'clock in the evening. The presence of such child in any establishment during working hours shall be prima facie evidence of its employment therein. No boy under the age of eighteen years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in section 12993 (1) for more than six days in any one week, (2) nor more than fifty-four hours in any week, (3) nor more than ten hours in any one day, (4) or before the hour of six o'clock in the morning or after the hour of ten o'clock in the evening. No girl under the age of twenty-one years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in section 12993 (1) for more than six days in any one week, (2) nor more than fifty hours in any week, (3) nor more than nine hours in any one day, except Saturday, when the hours of labor in mercantile establishments may be ten hours, (4) or before the hour of six o'clock in the morning or after the hour of ten o'clock in the evening. In estimating such periods, the time spent at different employments or under different employers shall be considered as a whole and not separately. (108 v. Pt. I, 532.)

SECTION 12996-1. Hours of employment of messenger under eighteen years. No person having charge or management of a telephone, telegraph or messenger office or company shall employ a boy under the age of eighteen years to work as a messenger in connection with such office or company before the hour of six o'clock in the morning or after the hour of nine o'clock in the evening of any day. (103 v. 908.)

SECTION 12997. Time for meals. A boy or girl employed as provided in section 12996-1, shall be entitled to not less than thirty consecutive minutes for meal time within five hours from the time of beginning work which shall not be included as a part of the work hours of the day or week. (103 v. 908.)

SECTION 12998. Two lists of minors employed shall be kept and one conspicuously posted. No child under eighteen years of age shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in section 12993, General Code, or any place of employment, exchange or headquarters, unless the person, firm or corporation employing such child keeps two complete lists of names, together with the ages, of all children under eighteen years of age, employed in or for such establishment or in such occupation, one on file, and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed.

Every employer shall post and keep posted in a conspicuous place in every room of any establishment or business named in section 12993, General Code, or this section, where any boy under the age of eighteen or any female under the age of twenty-one is employed, permitted or suffered to work a printed notice stating the maximum of hours such person may be required or permitted to work on each day of the week, the hours of commencing and stopping work, and the hours allowed for dinner and for other meals. The printed form of such notices shall be furnished by the industrial commission of Ohio and the employment of any minor for a longer time in any day than so stated or at any time other than as stated in said printed notice shall be deemed a violation of the provisions of the laws relating to the employment of minors.

In case the duties of the person are such as to cause him to move from room to room it shall be deemed compliance with the requirements of the above paragraph for the notice to be kept posted in the office or room to which such person reports or which serves as his headquarters. (109 v. 900.)

SECTION 12999. Hindering or obstructing attendance at part-time school or class, unlawful. Any employer who refuses to permit a minor in his employ to attend a part-time school or class as defined by law, when such minor is required by law so to attend, or arrange the hours of the minor's work so as to make possible such attendance, or dismisses a minor from his employ because of the minor's compliance with the law in respect to such attendance, or otherwise obstructs a minor's attendance at part-time school or class shall upon conviction for a first offense be punished by a fine of not less than ten nor more than fifty dollars; and upon conviction for subsequent offense by the penalties provided in section 12984, General Code. (109 v. 400.)

SECTION 13000. Certificate as prima facie evidence. Failure to produce for lawful inspection the age and schooling certificate as provided by law, or the record as provided in section twelve thousand nine hundred and ninety-eight, shall be prima facie evidence of the illegal employment or service of the child whose certificate is not so produced or whose record is not so correctly kept. (99 v. 30.)

SECTION 13001. Prohibiting the employment of a child under sixteen years in certain occupations. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or any of the following positions: (1) adjusting any belt to any machinery; (2) sewing or lacing machine belts in any

workshop or factory; (3) oiling, wiping or cleaning machinery or assisting therein; (4) operating or assisting in operating any of the following machines: (a) circular or band saws; (b) wood shapers; (c) wood jointers; (d) planers; (e) sandpaper or woodpolishing machinery; (f) woodturning or boring machinery; (g) picker machines or machines used in picking wool, cotton, hair or any other material; (h) carding machines; (i) paper-lace machines; (j) leather-burnishing machines; (k) job or cylinder printing presses operated by power other than foot power; (l) boring or drill presses; (m) stamping machines used in sheet-metal and tinware, or in paper and leather manufacturing, or in washer and nut factories; (n) metal or paper cutting machines; (o) corner staying machines in paper box factories; (p) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories; (q) steam boilers; (r) dough brakes or cracker machinery of any description; (s) wire or iron straightening or drawing machinery; (t) rolling mill machinery; (u) power punches or shears; (v) washing, grinding or mixing machinery; (w) calendar rolls in paper and rubber manufacturing; (x) laundering machines; (y) burring machinery; (5) or in proximity to any hazardous or unguarded belts, machinery or gearing; (6) or upon any railroad, whether steam, electric or hydraulic; (7) or upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state. (103 v. 909.)

SECTION 13002. Prohibiting a child under sixteen years working in certain capacities. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity (1) in, about or in connection with any process in which dangerous or poisonous gases are used; (2) nor in the manufacture or packing of paints, colors, white or red lead; (3) nor in soldering; (4) nor in occupations causing dust in injurious quantities; (5) nor in the manufacture or use of dangerous or poisonous dyes; (6) nor in the manufacture or preparation of compositions with dangerous or poisonous gases; (7) nor in the manufacture or use of compositions of lye in which the quantity thereof is injurious to health; (8) nor on scaffolding; (9) nor in heavy work in the building trades; (10) nor in any tunnel or excavation; (11) nor in, about or in connection with any mine, coal breaker, coke oven or quarry; (12) nor in assorting, manufacturing or packing tobacco; (13) nor in operating any automobile, motor car or truck; (14) nor in a bowling alley; (15) nor in a pool or billiard room; (16) nor in any other occupation dangerous to the life and limb, or injurious to the health or morals of such child. (103 v. 909.)

SECTION 13003. Board shall determine whether particular employment of minors shall be prohibited. The state board of health may, from time to time, after a hearing duly had, determine whether or not any particular trade, process or manufacture or occupation in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of age to justify their exclusion therefrom. No child under six-

teen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to common pleas court from any such determination. (99 v. 32.)

SECTION 13005. Female shall not be engaged in employment which compels her to stand. No female under the age of twenty-one years shall be engaged or permitted to work at an employment which compels her to remain standing constantly while on duty. (103 v. 910.)

Section 13006 Repealed. (109 v. 402.)

SECTION 13007. Fines paid into school fund. The fines collected under this subdivision of this chapter shall inure to the benefit of the school fund of the district where the offense was committed. (99 v. 32.)

SECTION 13007-1. Demand when age and schooling certificate not filed; evidence required. An inspector of factories, attendance officer, or other officer charged with the enforcement of the laws relating to the employment of minors or school attendance may make demand on any employer in or about whose place or establishment or material or equipment a person apparently under the age of eighteen years is employed or permitted or suffered to work, and whose employment certificate is not filed as required by this act, that such employer shall furnish him satisfactory evidence that such person is in fact over eighteen years of age. The inspector of factories, attendance officer, or other officer charged with the enforcement of such laws, shall require from such employer unless an overage certificate is held by the employee the same evidence of age of such child as is required upon the issuance of an age and schooling certificate. Failure of such employer to produce such evidence shall be deemed a violation of the laws relating to the employment of minors. (109 v. 402.)

Section 13007-2 Repealed. (109 v. 402.)

SECTION 13007-3. Prohibiting the employment of a child under eighteen in certain work. No child under the age of eighteen years shall be employed, permitted or suffered to work (1) in, about or in connection with blast furnaces, docks, or wharves; (2) in the outside erection and repair of electric wires; (3) in the running or management of elevators, lifts or hoisting machines or dynamos; (4) in oiling or cleaning machinery in motion; (5) in the operation of emery wheels or any abrasive, polishing or buffing wheel where articles of the baser metals or iridium are manufactured; (6) at switch tending; (7) gate tending; (8) track repair; (9) or as brakemen, firemen, engineers, motormen or conductors upon railroads; (10) or as railroad telegraph operators; (11) as pilots, firemen or engineers upon boats and vessels; (12) or in or about establishments wherein nitroglycerine, dynamite, edualin, guncotton, gunpowder, or other high or dangerous explosives are manufactured, compounded or stored; (13) or in the manufacture of white or yellow phosphorus or phosphorus matches; (14) or in any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled; (15) or in any hotel, theatre, concert hall, place of amusement, or any other establishment where intoxicating

liquors are sold; (16) nor any boy under sixteen or girl under eighteen in any theatre or other place of amusement, except on the stage thereof when not otherwise prohibited by law. (103 v. 911.)

SECTION 13007-4. Board may determine whether employment of children shall be prohibited in certain occupations. The state board of health may, from time to time, after hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under eighteen years of age is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under eighteen years of age to justify their exclusion therefrom.

No child under eighteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the common pleas court from any such determination. (103 v. 911.)

SECTION 13007-5. Minor shall not work in connection with saloon. No person under twenty-one years of age shall be employed, permitted or suffered to work in, about or in connection with any saloon or bar-room where intoxicating liquors are sold or to handle intoxicating liquors in any way. (103 v. 911.)

SECTION 13007-7. Who shall make complaint. It shall be the duty of inspectors of factories, attendance officers and other officers charged with the enforcement of laws relating to the employment of minors to make complaint by filing the proper affidavit before a court having competent jurisdiction against any person, firm or corporation violating any of the provisions of law relating to the employment of minors and to prosecute the same.

This shall not be construed as a limitation upon the right of other persons to make and prosecute such complaints. (109 v. 401.)

SECTION 13007-8. False statement as to age; penalty. Any person who with the intent to assist a minor or female under the age of twenty-one years to procure employment makes a false statement regarding the age of such person to an employer or to a person authorized to issue age and schooling certificates shall upon conviction be punished by a fine of not less than twenty nor more than fifty dollars or by imprisonment for not more than thirty days. (109 v. 401.)

SECTION 13007-9. Penalty for first violation. Any person, firm or corporation, agent or manager of any firm or corporation, who, whether for himself or for such firm or corporation, or by himself, or through an agent, servant or foreman, employs and whoever having under his control as parent, guardian, custodian or otherwise any minor permits or suffers a minor or female under the age of twenty-one years to be employed or to work in violation of any of the provisions of the laws relating to the employment of such minors or females under the age of twenty-one years for which the penalty is not otherwise provided by law shall for a first offense be punished upon conviction by a fine of not less than ten nor more than fifty dollars. (109 v. 401.)

SECTION 13007-10. Continuing employment after notice of violation; penalty. Whoever continues to employ any minor or any female under twenty-one years of age in violation of any of the provisions of the laws relating respectively to the employment of minors or females under the age of twenty-one after being notified thereof in writing by a factory inspector, attendance officer or other officer charged with the enforcement of such laws shall for every day thereafter that such employment continues be fined upon conviction not less than five nor more than twenty dollars. (109 v. 402.)

SECTION 13007-11. Repealed. (109 v. 402.)

SECTION 13007-12. Penalty for hindering officer in the discharge of duty. Any person, firm or corporation, or any manager, foreman, superintendent or agent of the owner or proprietor of any establishment, who (1) hinders or delays any female visitor or district deputy or any other officer charged with the enforcement of any of the provisions of this act in the performance of his or her duties, or (2) refuses to admit or locks out any such inspector or officer from any place where said inspectors or officers are authorized to inspect, or upon request therefor, refuses to give full and complete information regarding any matter proper to be investigated by any such inspector or officer, shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars. (108 v. Pt. I, 533.)

SECTION 13007-13. Penalty for false statement on affidavit or certificate. Any person authorized to sign any certificate, affidavit or paper called for by this act, who knowingly certifies to any materially false statement therein, shall be fined not less than twenty-five dollars nor more than one hundred dollars. (103 v. 913.)

SECTION 13007-14. Person under 21 years of age refusing to give age, taken before juvenile court. Any minor or female under twenty-one years of age working in or in connection with any of the establishments or places or in occupations with respect to which there are restrictions of law governing the employment of persons of his probable age who refuses to give to an authorized employee of the industrial commission of Ohio or other authorized inspector or attendance officer his name, age and place of residence shall be forthwith conducted by such authorized employee, inspector or attendance officer before the juvenile court or other court having jurisdiction in the premises for examination and to be dealt with according to law. (109 v. 402.)

MAINTENANCE OF MINORS—NON-SUPPORT

SECTION 13008. Failure to provide necessities. Whoever, being the father, or when charged by law with the maintenance thereof, the mother, of a legitimate or illegitimate child under sixteen years of age, or the husband of a pregnant woman, living in this state, fails, neglects or refuses to provide such child or such woman with the necessary or proper home, care, food and clothing, shall be imprisoned in a jail or workhouse at hard labor not less than six months nor more than one

year, or in the penitentiary not less than one year nor more than three years. (110 v. 7.)

SECTION 13008-1. Acquittal. Upon trial for any offense defined in the foregoing section, the defendant shall be acquitted if it appear that he was, because of lack of property or earnings, or the inability to secure employment, or the physical incapacity to perform labor, unable to provide such child or such woman with necessary or proper home, care, food and clothing. (110 v. 8.)

SECTION 13009. Abandoning child or pregnant woman. Whoever, being the father of a legitimate child under sixteen years of age, or being the husband of a pregnant woman, leaves, with intent to abandon, such child or pregnant woman, shall be imprisoned in a jail or a workhouse at hard labor not less than six months nor more than one year, or in the penitentiary not less than one year nor more than three years. (99 v. 228.)

SECTION 13010. Convicted person may give bond. If a person, after conviction under either of the next two preceding sections and before sentence thereunder, appears before the court in which such conviction took place and enters into bonds to the state of Ohio in a sum fixed by the court at not less than five hundred dollars nor more than one thousand dollars, with sureties approved by such court, conditioned that such person will furnish such child or woman with necessary and proper home, care, food and clothing, or will pay promptly each week for such purpose to a trustee named by such court, a sum to be fixed by it, sentence may be suspended. (99 v. 228.)

SECTION 13011. Where offense in preceding section was committed. An offense under the next three preceding sections shall be held to have been committed in any county in which such child or pregnant woman may be at the time such complaint is made. (99 v. 229.)

SECTION 13012. Neglect to pay for keeping child in children's home. Whoever, being the father, or when charged by law with the maintenance thereof, the mother, of a legitimate or illegitimate child under sixteen years of age, being legally an inmate of a county or district children's home in this state, neglects or refuses to pay to the trustees of such home, the reasonable cost of keeping such child in such home when able so to do by reason of property, or by labor or earnings, shall be imprisoned in a jail or workhouse at hard labor not less than six months nor more than one year, or in the penitentiary not less than one year nor more than three years. (99 v. 228.)

SECTION 13013. Convicted person may give bond. If a person, after conviction under the next preceding section and before sentence thereunder, appears before the court in which such conviction took place and enters into bond to the state of Ohio in a sum fixed by the court at not less than five hundred dollars, with sureties approved by such court, conditioned that such person will pay, so long as such child remains in such home, to the trustees thereof or to a trustee to be named by the court, for the benefit of the trustees of such home, the reasonable cost

of keeping such child, the amount and time of payment to be fixed by the court, sentence may be suspended. (99 v. 228.)

SECTION 13014. Where offense in preceding sections committed. An offense under section thirteen thousand and twelve shall be held to have been committed in the county where such children's home is situated. (99 v. 229.)

SECTION 13015. Failure to give bond; arrest. Upon failure of such father or mother, or husband of such pregnant woman to comply with any order and undertaking provided for in this subdivision of this chapter, he or she may be arrested by the sheriff or other officer, on a warrant issued on the precept of the prosecuting attorney, and brought before the court for sentence. Thereupon the court may pass sentence, or for good cause shown, may modify the order as to the time and amount of payments, or take a new undertaking and further suspend sentence as may be for the best interests of such child or children or pregnant woman and the public. (99 v. 229.)

SECTION 13016. Duties of trustee. The trustee appointed by the court under this subdivision of this chapter, shall make quarterly reports of the receipts and expenditures of all moneys coming into his hands as herein provided, such reports to be made to the county commissioners of the county from which such person was sentenced, or to the board of managers of the penitentiary, or reformatory as the case may be. The court may require such trustee to enter into a good and sufficient bond for the faithful performance of the duties imposed on him. (99 v. 229.)

SECTION 13017. Humane society may act as trustee. For the purposes set forth in the provisions of this subdivision of this chapter, a humane society, incorporated and existing under the laws of this state, being willing to render its services without compensation, may be appointed by the court as such trustee, and when so appointed shall have the powers of such trustee as herein conferred. (99 v. 229.)

SECTION 13018. Amount credited convict paid to trustee. When a person is convicted, sentenced and fined, under any provision of this subdivision of this chapter, in a workhouse, the county from which he is so convicted, sentenced and confined upon the warrant of the county auditor of such county, and out of the general revenue fund thereof, shall pay monthly fifty cents for each day he is so confined, to the trustees appointed by the court under any of such provisions, to be expended by such trustee for the maintenance of the child or children under sixteen years of age, of such person as provided in such provisions. (103 v. 913.)

SECTION 13019. Persons confined in penitentiary shall be credited with 40c per day. The board of managers of the penitentiary, or reformatory, to which a person is sentenced and confined under this subdivision of this chapter, shall credit such person with forty cents per day for each working day during the period of such confinement, which shall be paid, or caused to be paid, by such board to such trustee. (102 v. 114.)

SECTION 13020. Trustee to be named in mittimus. When a person is imprisoned in a workhouse, penitentiary or reformatory under this subdivision of this chapter, the name and postoffice address of the trustee so appointed by the court shall appear in the mittimus. (99 v. 229.)

SECTION 13021. Continuance of citizenship. Citizenship once acquired in this state by a father or mother of a legitimate or illegitimate child living in this state, for the purpose of this subdivision of this chapter, shall continue until such child has arrived at the age of sixteen years, provided said child so long continues to live in this state. (99 v. 229.)

PROSTITUTION

SECTION 13031. Keeping house of ill-fame or harboring child therein; nuisance. Whoever keeps a house or place of ill-fame or assignation for the purpose of prostitution or lewdness, or a house or place for persons to visit for unlawful sexual intercourse or for any other lewd, obscene or indecent purpose, or a disorderly house or place, or a place of public resort by which the peace, comfort or decency of a neighborhood is disturbed, or, as agent or owner, lets a place, building or portion thereof knowing that it is intended to be used for a purpose specified in this section, or, being the owner or agent, of such building or portion thereof, or the keeper of such house of ill-fame, prostitution or assignation where lewdness exists, keeps, harbors or employs a person over four and under sixteen years of age or allows such person to remain in or about such place of assignation or house of ill-fame, or knowingly permits a place, building or portion of a building to be so used, shall be fined not less than one hundred dollars nor more than three hundred dollars or imprisoned in the workhouse or jail not less than ninety days nor more than six months, or both. The houses, buildings, portions of buildings, and places mentioned in this section are public nuisances, and the court shall order them abated. (92 v. 398.)

SECTION 13031-1. Pandering defined. Any person who either by threats, or intimidation or by force or violence, or by deception, device or scheme takes, places, or causes to be taken or placed any female into a house of ill-fame for the purposes of prostitution, or any person who by force, violence, threats, intimidation or deception, or menace or duress takes or detains a female unlawfully with the intent to compel her to marry him or marry any other person or to be defiled; or any person who being parent, guardian or having legal charge of the person of a female, consents to her taking or detention by any person for the purpose of prostitution, shall be guilty of pandering and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term of not less than two, nor more than twelve years, and by a fine not more than five thousand dollars (\$5,000). (103 v. 188.)

SECTION 13031-2. Penalty. Any person who shall place any female in the charge or custody of any person or persons for immoral purposes or in a house of prostitution, with the intent that she shall lead a life of prostitution, or any person who, shall compel any female to reside

with him or with any other person for immoral purposes, or for the purpose of prostitution, or compel her to live a life of prostitution, is guilty of pandering, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one year nor more than ten years and by a fine not more than one thousand dollars. (103 v. 188.)

SECTION 13031-3. Penalty. Any person who shall receive any money or other valuable thing for, or on account of, procuring for, or placing in a house of prostitution or elsewhere, any female for the purpose of causing her to cohabit with any male person or persons, shall be guilty of a felony and upon conviction thereof shall be imprisoned in the penitentiary not less than three years nor more than ten years and fined not more than one thousand dollars. (103 v. 188.)

SECTION 13031-4. Penalty. Any person who places or leaves, or procures, any other person or persons to place or leave, his wife in a house of prostitution or procures her to lead a life of prostitution shall be guilty of a felony and upon conviction thereof shall be imprisoned in the penitentiary not less than three years nor more than ten years and fined not more than one thousand dollars. (101 v. 51.)

SECTION 13031-5. Penalty. Any person or persons who detains or attempts to detain any female in a disorderly house or house of prostitution or keeps or detains the personal effects of any female in any such house, or fails upon demand to deliver to any female her personal effects situated in a disorderly house or house of prostitution, shall be guilty of a felony and on conviction thereof shall be imprisoned in the penitentiary not less than three years nor more than ten years and fined not more than one thousand dollars. (103 v. 189.)

SECTION 13031-6. "White slave" traffic; penalty for. Any person who shall knowingly transport or cause to be transported, or aids or assists in obtaining transportation for, by any means of conveyance, through or across this state, any female with the intent or purpose to induce, entice, or compel such female to become a prostitute, or to reside in a disorderly house for the purpose of prostitution, shall be guilty of a felony and upon conviction be imprisoned in the penitentiary not less than three years nor more than ten years. Any person who shall commit the crime in this section mentioned may be prosecuted, indicted, tried and convicted in any county into or through which he shall have transported any female as aforesaid. (103 v. 189.)

SECTION 13031-7. Witness, competency of. Any such female referred to in this act shall be a competent witness in any prosecution under this act to testify in any and all matters, including conversations with the accused or by him with third persons in her presence, notwithstanding her having married the accused either before or after the violation of any of the provisions of this act, whether called as a witness during the existence of the marriage or after its dissolution. (101 v. 52.)

SECTION 13031-8. Search warrant. Any court of competent jurisdiction may, upon affidavit, issue a search warrant to the proper officer,

particularly describing the building or place to be searched, the person to be seized, and the things to be searched for, and alleging substantially the offense in relation thereto, for the purpose of securing evidence, in any case of any suspected violation of this act. (101 v. 52.)

SECTION 13031-9. Penalty. Any person who by force, fraud, intimidation or threats places, or leaves any female of previous chaste life and character in a house of prostitution or house of assignation, or to lead a life of prostitution, shall be guilty of a felony and upon conviction thereof shall be imprisoned in the penitentiary not less than one year nor more than ten years and fined not more than one thousand dollars. (103 v. 189.)

SECTION 13031-10. Search warrant to secure evidence. Any court of competent jurisdiction may upon affidavit issue a search warrant for the purpose of securing documentary or other evidence of the violation of this act. (103. v. 189.)

SECTION 13031-11. Competent evidence. Evidence as to the general reputation of a house as a house of prostitution or assignation shall be competent evidence to prove that it is such a house. (103 v. 189.)

SECTION 13031-12. Constitutionality. The adjudication by a court of competent jurisdiction of any section of this act or part thereof to be unconstitutional, shall not invalidate any other section or part thereof. (103 v. 189.)

SECTION 13031-13. Keeping, maintaining, occupying, permitting, etc., a place for prostitution, prohibited. From and after the passage of this act it shall be unlawful to keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation; or to occupy any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation or for any person to permit any place, structure, building or conveyance owned by him or under his control to be used for the purpose of prostitution, lewdness or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose; or to receive or to offer or agree to receive any person into any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation or to permit any person to remain there for such purpose; or to direct, take or transport, or to offer or agree to take or transport, any person to any place, structure or building or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation; to procure or to solicit or to offer to procure or solicit for the purpose of prostitution, lewdness or assignation; or to reside in, enter or remain in any place, structure or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness or assignation; or to engage in prostitution, lewdness or assignation or to aid or abet prostitution, lewdness or assignation by any means whatsoever. (108 v. Pt. I, 730.)

SECTION 13031-14. Terms "prostitution," "lewdness" and "assignation" defined. The term "prostitution" shall be construed to include the

offering or receiving of the body for sexual intercourse for hire, and, shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. The term "lewdness" shall be construed to include any indecent or obscene act. The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement. (108 v. Pt. I, 731.)

SECTION 13031-15. Prior conviction and testimony admissible evidence. In the trial of any person, charged with a violation of any of the provisions of section 13031-13 of the General Code, testimony of a prior conviction, or testimony concerning the reputation of any place, structure or building and of the person or persons who reside in or frequent the same and of the defendant shall be admissible in evidence in support of the charge. (108 v. Pt. I, 731.)

SECTION 13031-16. First and second degree guilt, defined. Whoever shall be found to have committed two or more violations of any of the provisions of section 13031-13 of the General Code within a period of one year next preceding the date named in an indictment, information or charge of violating any of the provisions of section 13031-13 of the General Code, shall be deemed guilty in the first degree. Whoever shall be found to have committed a single violation of any of the provisions of this act shall be deemed guilty in the second degree. (108 v. Pt. I, 731.)

SECTION 13031-17. Penalty for guilt in first degree. Whoever shall be found guilty in the first degree, as set forth in section 13031-16, shall be subject to imprisonment in, or commitment to, any penal or reformatory institution in this state for not less than one nor more than three years; provided, that in case of a commitment to a reformatory institution the commitment shall be made for an indeterminate period of time of not less than one nor more than three years in duration, and the board of managers or directors of the reformatory institution, or other officer, board of commission vested with such powers, shall have authority to discharge or to place on parole any person so committed after the service of the minimum term, or any part thereof, and to require the return to the said institution for the balance of the maximum term of any person who shall violate the terms or conditions of the parole.

(b) **Penalty for guilt in second degree.** Whoever shall be found guilty in the second degree, as set forth in section 13031-16, shall be subject to imprisonment for not more than one year; provided, that the sentence imposed, or any part thereof, may be suspended, and provided further that the defendant may be placed on probation in the care of a probation officer designated by law or theretofore appointed by the court upon the recommendation of five responsible citizens.

(c) **Medical examination of person charged with violation of law; treatment.** Any person charged with a violation of section 13031-13 of the General Code, shall, upon the order of the court having jurisdiction of such case, be subjected to examination to determine if such person is infected with a venereal disease. Such examination shall be made by

the physician employed to render medical service to persons confined or detained by the municipality or county, or by some physician designated by the court or by the board of health to make such examination. Any such person found to have a venereal disease in the infective state shall receive medical treatment therefor and shall pay for such treatment if able to do so. If not able to pay, such medical treatment shall be at the expense of the municipality or county. No person charged with a violation of section 13031-13 of the General Code shall be discharged from custody, paroled or placed on probation if he or she has a venereal disease in an infective stage unless the court having jurisdiction shall be assured that such person will continue medical treatment until cured or rendered non-infectious.

(d) **Woman probation officer.** No girl or woman who shall be convicted under this act shall be placed on probation or on parole in the care or charge of any person except a woman probation officer. (103 v. Pt. I, 731.)

MISCELLANEOUS OFFENSES

SECTION 13206. Selling intoxicating liquors or keeping house of ill-fame at certain places prohibited. Whoever sells intoxicating liquors or keeps a house of ill-fame at or within twelve hundred yards of the administration or main central building of the Columbus state hospital, Dayton state hospital, Athens state hospital, Toledo state hospital, soldiers' and sailors' orphans' home, or any other orphans' home in this state, or within two miles of the boundary line of the boys' industrial school, south of Lancaster, Fairfield county, or within two miles of the place where an agricultural fair is being held, or within one mile of a county children's home of a county of the state situated within one mile of an incorporated village or city in which the sale of intoxicating liquor is prohibited by an ordinance of such village or city, shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not more than thirty days, or both. The place wherein such intoxicating liquors are sold shall be shut up and abated as a nuisance by order of the court upon conviction of the owner or keeper thereof. (93 v. 341.)

SECTION 13408. Tramps. Whoever, not being a female or blind person and not being in the county where he usually lives or has his home, begs or asks subsistence by charity and enters a dwelling house, or yard or enclosure about a dwelling house, without the permission of the owner or occupant thereof, or does not, when requested, forthwith leave such place, or is found carrying a firearm or dangerous weapon, or does or threatens to do injury to the person or property of another, shall be imprisoned in the penitentiary not less than one year nor more than three years. A person, on view, may apprehend such offender and take him before a justice of the peace, or other examining officer, for examination. (76 v. 191.)

SECTION 13409. Vagrants. Whoever, being a male person able to perform manual labor has not made reasonable effort to procure em-

ployment or has refused to labor at reasonable prices, is a vagrant or common beggar and shall be fined not more than fifty dollars and sentenced to hard labor in jail until the fine and costs are paid. For such labor he shall receive credit upon such final costs at the rate of seventy-five cents per day. (72 v. 165.)

SECTION 13421-1. Selling of diphtheria antitoxin prohibited. Any person or persons who shall sell diphtheria antitoxin produced and distributed by the state board of health shall be guilty of a misdemeanor and upon conviction shall be fined in any amount not exceeding one hundred dollars. (106 v. 23.)

CRIMINAL INSANE

(See Sections 1841-9; 1841-11; 1985 et seq.; 2218; 2220; 2221.)

SECTION 13577. Grand jury finding accused insane. If a grand jury upon investigation of a person accused of crime finds such person to be insane, it shall report such finding to the court of common pleas. Such court shall order a jury to be impaneled to try whether or not the accused is sane at the time of such impaneling, and such court and jury shall proceed in a like manner as provided by law when the question of the sanity of a person indicted for an offense is raised at any time before sentence. If such person is then found to be insane, he shall be committed to the Lima State Hospital until restored to reason. This section shall not be in force and effect until the Lima State Hospital is ready for the reception of inmates as certified to the courts by the governor and secretary of state. (98 v. 239.)

SECTION 13608. Whether accused is insane may be tried by special jury. When the attorney of a person indicted for an offense suggests to the court in which an indictment is pending, and before sentence, that such person is not then sane and certificate of a reputable physician to that effect is presented to the court, such court shall order a jury to be impaneled to try whether or not the accused is sane at the time of such impaneling. Thereupon a time shall be fixed for a trial, a jury shall be drawn from the jury box and a venire issued, unless the prosecuting attorney or the attorney of the accused demand a struck jury, in which case such jury shall be selected and summoned as required by law. The jury shall be sworn to try the question whether the accused is or not sane and a true verdict give according to the law and the evidence, and, on the trial, the accused shall hold the affirmative. (72 v. 80.)

SECTION 13609. Verdict by three-fourths of jury. If three-fourths of the jurors provided for in the next preceding section, agree upon the verdict, their finding may be returned as the verdict of such jury, and a new trial may be granted on the application of the attorney of the accused, for the causes and in the manner provided in this title. (72 v. 80.)

SECTION 13610. Proceedings on verdict of such jury. If three-fourths of the jurors do not agree, or the verdict is set aside, another jury, shall be impaneled to try the question. If the jury find the accused

to be sane and no trial has been had on the indictment, a trial shall be had thereon as if the question had not been tried. If the jury find him to be not sane, that fact shall be certified by the clerk to the probate court, and the accused, until restored to reason, shall be dealt with by such court as upon inquest had. If he is discharged, the bond given for his support and safekeeping shall contain a condition that, when restored to reason, he shall answer to the offense charged in the indictment, or of which he has been convicted, at the next term of the court thereafter and abide the order of such court. (72 v. 80.)

SECTION 13611. May be prosecuted when restored to reason. When restored to reason, the accused may be prosecuted for an offense committed by him previous to such insanity, or sentenced on a conviction had previous thereto. (72 v. 80.)

SECTION 13612. Proceedings when accused is acquitted on the sole ground of insanity. When a person tried upon an indictment for an offense is acquitted on the sole ground that he was insane, such fact shall be found by the jury in the verdict, and certified by the clerk to the probate court. Such person shall not be discharged, but forthwith delivered to the probate court, to be proceeded against upon the charge of lunacy, and the verdict shall be prima facie evidence of his sanity. (53 v. 81.)

SECTION 13613. Proceedings when accused is restored to reason. When a lunatic confined in an asylum or an infirmary, under the provisions of the next preceding section or under the provisions of law providing that the probate court shall examine an alleged lunatic who is in jail awaiting examination before a magistrate, is restored to reason, the superintendent having him in charge shall notify the prosecuting attorney at the proper county of such fact, who, within a reasonable time, shall cause the clerk of the court to issue a capias, upon which the accused may be arrested and committed to the jail of the county, to answer the offense charged against him. In default of such capias, such superintendent shall discharge him. (53 v. 81.)

SECTION 13614. Person under indictment insane. If a person under indictment appears to be insane, proceedings shall be had as provided for persons not indicted because of insanity. If such person is found to be insane he shall be committed to the Lima State hospital until restored to reason when the superintendent thereof shall notify the prosecuting attorney of the proper county who shall proceed, as provided by law, with the trial of such person under indictment. (98 v. 239.)

SECTION 13679. Acquittal because of insanity. When a person tried upon an indictment for an offense is acquitted on the sole ground that he was insane, and proceedings are had thereafter as provided by law, he shall be committed to the Lima State Hospital. This section shall not be in force and effect until the Lima state hospital is ready for the reception of inmates as certified to the courts by the governor and secretary of state. (98 v. 239.)

SECTION 13600. When convict in penitentiary is indicted for offense committed therein. When a convict in the penitentiary is indicted for

an offense committed while confined therein, he shall remain in the custody of the warden of the penitentiary, subject to the order of the court of common pleas of Franklin county. (66 v. 321.)

SECTION 13601. Certain convicts in the penitentiary removed for sentence or trial. A convict in the penitentiary who escaped or forfeited his recognizance before receiving sentence for a felony or against whom an indictment for felony is pending, may be removed to the county in which such conviction was had or such indictment was pending, for sentence or trial, upon the warrant of the court of such county. This section shall not extend to the removal of a convict for life, except the sentence to be imposed or the indictment pending against him, is for murder in the first degree. (66 v. 118.)

SECTION 13602. The warrant for removal, and how executed. The warrant for such removal shall be in the usual form, except that it shall set forth that the accused is in the penitentiary; it shall be directed to the sheriff of the county in which the conviction was had or the indictment is pending. When a copy thereof, with the approval of the governor indorsed thereon, is presented to the warden of the penitentiary, he shall deliver the convict to the sheriff, who shall convey him to such county and commit him to the jail thereof. For removing or returning such convict the sheriff shall receive fees as are allowed by law for conveying convicts to the penitentiary. (63 v. 20.)

SECTION 13603. Governor must approve the warrant before removal. The sheriff shall present the warrant to the governor, who, if satisfied that such convict ought to be removed for sentence or trial, shall endorse his approval thereon. Without such approval and indorsement the warden shall not surrender the convict. (63 v. 20.)

SECTION 13604. Where such convict to be confined. A convict so removed shall be kept in jail subject to be taken into court for sentence or trial. If the case be continued or the execution of the sentence be suspended, the court may order him to be returned to the penitentiary by the sheriff, who shall deliver with him a certified copy of such order to the warden, who shall again deliver him to the sheriff upon another order of the court, duly certified. (63 v. 20.)

SECTION 13605. To be returned to the penitentiary or executed. If such convict is acquitted, he shall be forthwith returned by the sheriff to the penitentiary to serve out the remainder of his term, but, if he is sentenced to imprisonment in the penitentiary, he shall forthwith be returned thereto by the sheriff and the term of such imprisonment shall begin at the expiration of the term for which he was imprisoned at the time of his removal. If he is sentenced to death, such sentence shall be executed as if he were not under sentence or imprisonment in the penitentiary. (63 v. 20.)

SECTION 13606. Escaped convict to be arrested and returned. Sheriffs, coroners and constables shall arrest a convict escaping from the penitentiary, and forthwith convey him to the penitentiary and deliver him to the warden thereof. They shall be allowed eight cents per mile going to and returning from such penitentiary, and such additional

compensation as the warden deems reasonable for the necessary expense incurred. (33 v. 14.)

SECTION 13606-1. Duty of certain officers when prisoner violates parole. That when a prisoner is paroled or probated from the Ohio penitentiary or the Ohio state reformatory and violates any of the conditions of his parole or release, it is hereby the duty of any sheriff, deputy sheriff, chief of police, policeman or police officer, upon his knowing or being advised that such paroled convict is in his bailiwick and has violated the conditions of his parole or release, to forthwith arrest such person, and, if a prisoner from the penitentiary, report same to the Ohio board of administration, at Columbus, and if from the Ohio state reformatory, to the superintendent of the same, and for so doing no warrant or other authority shall be necessary. (103 v. 404.)

PROBATION

SECTION 13706. What prisoners may be put upon probation. In prosecutions for crime, except as hereinafter provided, where the defendant has pleaded or been found guilty, and the court or magistrate has power to sentence such defendant to be confined in or committed to the penitentiary, the reformatory, a jail, workhouse, or correctional institution, and the defendant has never before been imprisoned for crime, either in this state or elsewhere, and it appears to the satisfaction of the court or magistrate that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and that the public good does not demand or require that he shall suffer the penalty imposed by law, such court or magistrate may suspend the execution of the sentence, at any time before such sentence is carried into execution, and place the defendant on probation in the manner provided by law. (108 v. Pt. I, 144.)

SECTION 13707. Juvenile delinquent. This subdivision of this chapter shall not affect the laws providing the method of dealing with juvenile delinquents, nor shall detention in an institution for such juvenile delinquents be considered as imprisonment. (99 v. 339.)

SECTION 13708. Exceptions thereto. No person convicted of murder, arson, burglary of an inhabited dwelling house, incest, sodomy, rape without consent, assault with intent to rape, or administering poison shall have the benefit of probation. (99 v. 340.)

SECTION 13709. Duty of clerk. When it is the judgment of the court that the defendant be placed upon probation and under the supervision of the penitentiary or the reformatory, the clerk of such court shall forthwith make a full copy of the judgment of the court, with the order for the suspension of the execution of sentence thereunder and the reasons therefor, and certify them to the warden of the penitentiary or to the superintendent of the reformatory, to which the court would have committed the defendant but for the suspension of sentence. (99 v. 340.)

SECTION 13710. When prisoner released. Upon entry in the records of the court of the order for the probation provided for in the next preceding section, the defendant shall be released from custody of the court as soon as the requirements and conditions required by the board of managers have been properly and fully met. (99 v. 340.)

PROSECUTION AND TRANSPORTATION

SECTION 13720. Delivery of convict within five days; exception. A person sentenced for felony to the penitentiary, or a reformatory, unless the execution thereof is suspended, shall be conveyed to the penitentiary or such reformatory by the sheriff of the county in which the conviction was had, within five days after such sentence, and delivered into the custody of the warden of the penitentiary, or superintendent of such reformatory, with a copy of such sentence, there to be kept until the term of his imprisonment expires, or he is pardoned. If the execution of such sentence is suspended, and the judgment be afterward affirmed, he shall be conveyed to the penitentiary or such reformatory within five days after the court directs the execution of sentence; provided, however, that the trial judge, or any judge of said court in said subdivision may, in his discretion, and for good cause shown, extend the time of such conveyance. (108 v. Pt. II, 1218.)

SECTION 13721. Sheriff may demand assistance during conveyance of convict. During the time a sheriff is conveying to the penitentiary a person sentenced to imprisonment therein, he may secure him in a jail and demand the assistance of a sheriff, jailer, or other person in keeping such prisoner, as if he were in his own county. Such sheriffs, jailers, or other persons shall be liable, on refusal, to like penalties as if the sheriff, making the demand, were in his own county. (66 v. 314.)

SECTION 13722. Cost bill in case of felony made and certified; examination. Upon sentence of a person for a felony, the clerk shall make and certify, under his hand and the seal of the court, a complete itemized bill of the costs made in such prosecution including the sum paid by the county commissioners, duly certified by the county auditor, for the arrest and return of the convict on the requisition of the governor, or on the request of the governor to the president of the United States. Such bill of costs shall be presented by such clerk to the prosecuting attorney, who shall examine each item therein charged, and certify to it if correct and legal. (108 v. Pt. II, 1219.)

SECTION 13723. Writs of execution to issue on sentence. The clerk shall forthwith issue to the sheriff of the county in which the indictment was found, and to the sheriff of any other county in which the convict has property, executions against his property for the costs of prosecution, which shall be served and returned within ten days, with the proceedings of such sheriff or the want of property upon which to so levy, endorsed thereon. When a levy is made upon property under such execution, a writ shall forthwith be issued by the clerk for the sale thereof

and such sheriff shall proceed to sell the property as in other cases, and make return thereof according to law, and, after paying the costs of conviction, execution and sale, pay the balance to the person authorized to receive it. (42 v. 30.)

SECTION 13724. Costs on execution of sentence for felony. If the convict is sentenced for felony to imprisonment in a reformatory, the penitentiary, or to death, and no property has been levied upon, the sheriff shall deliver such certified cost bill, having accredited thereon the amount paid on costs, with the convict to the warden of the penitentiary or superintendent of such reformatory. When property has been levied upon and remains unsold, the clerk shall not certify to the sheriff the costs of such conviction, or part thereof, for payment from the state treasury, but the convict shall be delivered to such warden or superintendent in pursuance of his sentence, upon payment of the cost of transportation. (108 v. Pt. II, 1219.)

SECTION 13725. Number of guards and fees for transportation of convicts. In transporting convicts to the penitentiary or a reformatory, the sheriff may take one guard for every two convicts transported, if he deems it necessary; but the trial judge may authorize a larger number upon written application of the sheriff, in which case a transcript of the order of such judge shall be certified by the clerk of the court under the seal thereof and the sheriff shall deliver it to the warden of the penitentiary or the superintendent of such reformatory with such convict. In order to reimburse the county for the expenses of transportation the state shall pay the following fees: Five cents a mile from the the county seat to the state institution and return for the sheriff and each of the guards and five cents a mile from the countyseat to the state institution for each prisoner, the number of miles to be computed by the usual route of travel. (108 v. Pt. II, 1219.)

SECTION 13726. Certification by warden before audit and payment of cost bill. When the clerk of courts certifies on the cost bill that execution was issued according to the provisions of this chapter, and returned by the sheriff "no goods, chattels, lands or tenements found whereon to levy", the warden of the penitentiary or the superintendent of such reformatory shall certify thereon the date on which such prisoner was received at the institution, and the fees for transportation; whereupon the auditor of state shall audit such cost bill and the fees for transportation and issue his warrant on the treasurer of state for such amount as he finds to be correct. (42 v. 30.)

SECTION 13727. When costs not made, etc., clerk to certify such fact to auditor of state. Upon the return of the writ against the convict, if an amount of money has not been made sufficient for the payment of the costs of conviction, and no additional property is found whereon to levy, the clerk shall so certify to the auditor of state under his seal, with a statement of the total amount of costs, the amount made and the amount remaining unpaid. Such amount so unpaid as the auditor finds to be correct, shall be paid by the state, to the order of such clerk. (42 v. 30.)

PROBATION OF PRISONERS SENTENCED TO JAIL, WORKHOUSE OR CORRECTIONAL SCHOOL

SECTION 13711. Probation of prisoners sentenced to jail or workhouse. When the sentence of the court or magistrate is that the defendant be imprisoned in a workhouse, jail, or other institution, except the penitentiary or the reformatory, or that the defendant be fined and committed until such fine be paid, the court or magistrate may suspend the execution of said sentence and place the defendant on probation, and in charge of a probation officer named in such order, in the following manner:

1. In case of sentence to a workhouse, jail or other correctional institution, the court or magistrate may suspend the execution of the sentence and direct that such suspension continue for such time, not exceeding two years, and upon such terms and conditions as it shall determine.

2. In case of a judgment of imprisonment until a fine is paid, the court may direct that the execution of the sentence be suspended on such terms as it may determine and shall place the defendant on probation to the end that said defendant may be given the opportunity to pay such fine within a reasonable time; provided, that upon payment of such fine, judgment shall be satisfied and the probation cease. (99 v. 341.)

SECTION 13712. Probation officer appointed. In cases of probation provided for in the next preceding section, no order for probation shall be issued unless the court or magistrate designate some suitable person to act as probation officer in such case, who shall make written reports, at designated periods not less than once each month concerning the conduct of a probationer in his charge. (99 v. 342.)

SECTION 13713. His duties. A probation officer shall be entitled to necessary expenses in the performance of his duty, and, for cause hereafter named, without warrant or other process, at any time until the final disposition of the case, may re-arrest, a person, so placed in his care, and bring him before the court; or the court or magistrate, may issue a warrant for the re-arrest of such person and thereupon revoke and terminate such probation, if the interest of justice requires, and if the court or magistrate has reason to believe from the report of a probation officer or otherwise that the probationer is violating the conditions of his probation, engaging in a criminal practice, or has become abandoned to improper associates or a vicious life. (99 v. 342.)

SECTION 13714. New sentence. Upon such revocation and termination, the court or magistrate may pronounce judgment at any time after such suspension within the longest period for which the defendant might have been sentenced, whereupon the judgment shall be in full force and effect, and the person shall be delivered over to the proper officer to serve his sentence. (99 v. 342.)

SECTION 13715. Revocation of sentence. The court or magistrate, at any time during the term of probation, may revoke or modify its order of execution of sentence and, at any time, when the ends of justice will be subserved thereby and the good conduct and reform of the person

so held in probation shall warrant it, may terminate the period of probation and discharge the person so held. If the court or magistrate has not revoked the order of probation, the defendant at the end of the term of probation, shall be discharged. (99 v. 342.)

SECTION 14769. **No charge for water to extinguish fires in municipalities.** No charge shall be made by the trustees or board for supplying water for extinguishing fires or cleaning fire apparatus, or for furnishing and supplying connections and fire hydrants, and keeping the same in repair, for fire department purposes, or the cleaning of markethouses, or for the use of public school buildings, or for the use of any public buildings belonging to the corporation, or for any hospital, asylum, or other charitable institution devoted to the relief of the poor, the aged, infirm or destitute persons, or orphan children, and in cities of the first grade of the first class the board of city commissioners may, when it deems expedient, supply water without charge to any zoological garden in or near such cities, so long as the company or association owning such garden pays no dividend to its stockholders; but any member of such board may at any time enter such garden and examine into any waste or unnecessary use of the water, and the board may, at any time, revoke the grant of such free use of water. (R. S. of 1880.) On same subject, see G. C. Section 3963.

EXCERPTS FROM OPINIONS OF ATTORNEY GENERAL AND COURT CITATIONS

Arranged according to General Code Sections

Section No.

23-23-1. Lands

No. 792. February 26, 1914. To Ohio Board of Administration:

The Board of Administration is without authority to grant permission to a corporation to lay a gas line through property belonging to the state and under the control of such board.

No. 494. December 18, 1911. To Ohio Board of Administration:

Board not authorized to lease any lands belonging to the state for the purpose of drilling for oil or gas, or for any other purpose.

June 23, 1922. To the Department of Public Welfare:

State owned lands may not be gratuitously assigned or rented to a private organization for Chautauqua purposes.

These lands were acquired under and by virtue of a legislative appropriation for a particular purpose, and must be used for that purpose only until such time as the legislature affirmatively provides that the same may be used for some other purpose.

April 11, 1922. To the Department of Public Welfare:

Athens Electric Company—*Right of Way* for an electric power line across Athens State Hospital farm.

State has no legal authority to grant right of way. Such right of way could be given only by legislative enactment.

However, the superintendent of a state institution may voluntarily and as a matter of accommodation permit such a line to be placed on its property, where the location of the line works no interference with the activities of the institution. But it should be clearly understood that such permission might be at any time revoked by the state for any reason satisfactory to it.

24 et seq. Receipts

September 9, 1921. To the Department of Public Welfare: Collections from the U. S. Government for special individual and statistical reports covering war risk patients in the state hospitals must be paid into the State Treasury under Section 24 G. C.

86-105. Clemency Board (Pardon and Parole)

See Opinions cited under Sections 2167-2175.

91. No. 608. September 10, 1917. To the Ohio Board of Administration.

The Ohio Board of Clemency has no jurisdiction over the correctional institutions of the state, namely, the Boys' Industrial school and the Girls' Industrial School, their jurisdiction being limited to penal institutions, namely, the Ohio State Re-

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formatory, the Ohio Reformatory for Women and the Ohio Penitentiary.

92. **No. 1697.** December 10, 1920. To the Board of Clemency: Commitments to the Ohio Reformatory for Women under the provisions of Section 13031-17a G. C. (108 O. L., Part I, p. 731) are to be regarded as felony commitments, and are "for an indeterminate period of time not less than one nor more than three years in duration." With said section, the provisions of Section 2148-9 G. C. are entirely consistent.

Commitments to the Ohio Reformatory for Women under the provisions of Section 13031-17b G. C. (108 O. L. Part I, p. 732) are to be regarded as misdemeanor commitments, and are, pursuant to the provisions of said section, "for not more than one year." Said section is in the nature of an exception to the general rule for misdemeanor commitments stated by Section 2148-9 G. C.

93. **Cited:** State v. Schiller, 70 O. S. I.; State v. Jones, 5 O. N. P. 390, 8 O. D. (N. P.) 645:

General Code Section 12399 does not, when read in connection with Section 93, attempt to withdraw the pardoning power from the Governor; but merely forbids the board of pardons to recommend for pardon a person convicted of murder in the first degree.

94. Under Art. III, Sec. II, of the Constitution, the Governor is authorized of his own motion to reprieve or suspend for a specified interval of time the execution of a prisoner under sentence of death. Such reprieve is not conditional and the consent of the prisoner thereto is unnecessary: Sterling v. Drake, 29 O. S. 457.

98. A full, unconditional pardon, delivered, is irrevocable; and where a person imprisoned on a sentence for felony seeks a discharge by habeas corpus, based on such pardon, the pardon having been issued by the Governor pursuant to the constitution and statute, on the certificate of the physician to the penitentiary that the prisoner is in imminent danger of death, it is not competent in this state, under existing statutes, to impeach such pardon, in such proceeding, by proof that the physician's certificate was obtained by false representations of the prisoner, and his fraudulent acts, with respect to his health, such representations having been made, and acts done, for the purpose of obtaining such certificate and such pardon: Knapp v. Thomas, 39 O. S. 377.

99. **No. 174.** February 26, 1912. To the State Board of Administration:

Inasmuch as Section 2169 General Code restricts regulations of the Board of Administration with reference to applications for parole to such prisoners as have served the "minimum

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sentence" prescribed by law for the crime for which they were convicted, and as the minimum sentence provided for rape upon a daughter is life imprisonment, a prisoner sentenced for such crime can not become eligible for parole. The fact that such prisoner's sentence has been commuted does not change the nature of the crime and therefore in no wise affects his eligibility for parole.

See *Knapp v. Thomas*, 39 O. S. 377.

A similar statutory provision with reference to reprieve does not render invalid an unconditional reprieve which does not change the nature of the punishment, but merely postpones the time at which such punishment shall be inflicted, even if the prisoner does not consent thereto: *Sterling v. Drake*, 29 O. S. 457.

Op. Atty. Gen. No. 230, April 12, 1915, Vol. I, p. 435.

103. An appropriation for "prosecution and transportation of convicts" under the single specific heading "personal service" is available to pay costs of apprehending parole violators under section 103 G. C., the salaries and expenses of a parole officer and field agents of the Girls' Industrial Home, the Penitentiary, the Boys' Industrial School, under sections 2212-3 and 2215 G. C., and the costs of conviction and transportation fees payable out of the state treasury under section 13727 G. C.

December 21, 1921. To the Department of Public Welfare:

If there are no vacancies on the board, the act of the majority would be binding provided the third member had notice and opportunity to be present. Two members cannot act if there is a vacancy on the board.

105. The commutation of the punishment of a lunatic convict by the Governor is valid and takes effect without the acceptance or consent of the convict, and cannot be defeated or invalidated by the convict's rejection or refusal of it when restored to reason. Accordingly, the commutation of a death sentence to life imprisonment made while the convict is insane is valid, and after the convict is restored to reason he cannot be released on habeas corpus: *Ex parte Victor*, 31 O. S. 206.

A reprieve takes effect without the consent of the convict, and upon the expiration of the time fixed for the reprieve, the original sentence may be carried into effect: *Sterling v. Drake*, 29 O. S. 457.

- 154-40. **Construction**

See citations under sections 2314-2332.

No. 2935. March 17, 1922. To the Department of Public Welfare:

Department of Welfare has the authority to prepare plans and specifications, open bids and enter into contract for all capital equipment.

Plans and specifications must receive the approval of

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the Highway Department as the successor to the state building commission. Welfare Department may require assistance from Highway Department in drawing plans, etc.

Purchase of all supplies, such as electric wire where work is to be done by prison labor or regular employes of the institution, must be made by Department of Finance, Purchasing Department.

No. 2407. To the Department of Public Welfare:

Department of Highways and Public Works has no power in connection with the installation, remodeling and repairing of steam and electric power plant, transmission and distribution systems, other mechanical equipment, and structures other than buildings at the state institutions.

Department of Public Welfare to decide whether or not repairs on buildings at state institutions under its jurisdiction shall be made, and also the function of that department to say what those repairs shall consist of. This decision made, it then becomes the duty of the Highway Department to carry forward the work of making these repairs.

The action of the controlling board approving an application made to it is to authorize the expenditure of moneys appropriated for "total personal service" and "total maintenance" otherwise than in accordance with the interior classification of detailed purposes, but within the main purpose for which such appropriations are made.

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486-31. **Civil Service**

No. 11. January 18, 1915. To State Civil Service Commission of Ohio:

When the state civil service commission has certified to a board the names of the three candidates standing highest, said commission has no authority to certify the three next highest to said board, merely because said board is unable to agree upon anyone for the position.

No. 662. December 23, 1913. To State Civil Service Commission of Ohio:

Head of sub-department under classified civil service may not have assistants in unclassified service.

No. 789. September 5, 1915. To State Civil Service Commission of Ohio:

Provision for certifying incumbents under section 486-31 G. C. civil service act, valid.

No. 824. September 14, 1915. To Auditor of State:

When civil service commission certifies pay-roll upon which salary warrant is drawn, person entitled to such warrant. When commission fails to certify, not entitled to warrant. No eligible lists, the incumbent of position may be appointed provisionally. Provisional appointments are under section 486-14 of civil service

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law. No "emergency" where there is a qualified person eligible for provisional appointment. Salary of office follows office. Right of employe to recover compensation as such depends upon actual performance of service. Employes discharged in violation of civil service law cannot recover compensation from state, even though vacant places have not been filled meanwhile and no salary paid to other persons.

No. 958. May 28, 1914. To State Civil Service Commission:

Superintendents or managing officers of institutions under control of Ohio Board of Administration not placed in unclassified service. Practicability of competitive examination of applicant shall be determined by state civil service commission.

No. 977. November 6, 1915. To State Civil Service Commission of Ohio:

Filing of formal application within a reasonable time prior to proposed examination is mandatory. If applicant permitted to take examination, board cannot subsequently question his right.

No. 1343. December 20, 1914. To State Civil Service Commission of Ohio:

Employes in classified service who were appointed for a definite term continued in such employment for an indefinite period by civil service act. Employment or office does not terminate at the expiration of appointed term.

No. 1649. June 2, 1916. To Prosecuting Attorney, Toledo:

Persons in classified service may not be appointed to offices or positions in unclassified service without their consent and approval of proper civil service commission.

Unless both members of the state civil service commission concur in a judgment disaffirming the order of removal, such order of removal is not affected. Such failure to concur does not confer upon the courts the right to determine the propriety of such order in an injunction suit: *Industrial Commission v. Evans*, 99 O. S. 56.

No. 447. July 14, 1917. To the Ohio Board of Administration:

If the sums appropriated for personal service are not sufficient in amount to pay the rates specified by the Civil Service Commission, the appointing authority, or the controlling board, is *not required* to secure additional funds in order to enable such payments to be made; but if such additional sums are not secured, no compensation at all may be paid on account of the positions affected by such failure; so that such positions are in effect abolished by such failure to secure additional funds.

No. 795. November 20, 1917. To the State Civil Service Commission:

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1. Under the provisions of the civil service law an appeal lies to the civil service commission from orders of reduction, lay-off or suspension. The civil service commission is warranted in sustaining such appeal only when it is clearly and affirmatively shown that such reduction, lay-off or suspension was on account of political or religious affiliation, or was made from other motives not founded upon the efficiency of the administration or the good of the public service. Unless such state of facts be clearly shown,—the presumption in favor of the propriety of official acts requires the dismissal of such appeals.
2. The heads of departments may reduce the salary of an employe in the classified civil service whose position does not fall within any of the groups for which the legislature has established salary schedules, provided such reduction be not made for any of the improper motives prohibited by the civil service law.
3. An employe appointed from a state-wide eligible list is under the control of the head of the department who, in the proper management of the affairs of such department, may require the services of such employe in different localities from time to time as the exigency of public service requires, so long as the transfer is not from one department to another in violation of section 16 of the civil service law.
4. Where a state has been divided into districts by a department for its own administration, employes in one district may be removed to another district by the head of such department without the approval of the civil service commission, but subject to the rules above given as to the reasons for such transfer if the same amount to any discrimination in position against such employes.

No. 1257. June 3, 1918. To the State Civil Service Commission:

A leave of absence from duty by an employe in the state civil service, either with or without pay, is not a separation from the service within the meaning of section 468-16 G. C.

The State Civil Service Commission has authority to provide by rule that leave of absence be reported to them when such leave of absence is under such circumstances or for such length of time that they may be required to supply an employe temporarily to perform the duties of the position.

No leave of absence could be granted which by its terms is to extend for a period beyond a year.

Whenever an employe is properly absent upon leave of absence, he has the right to return at the end of the period of such leave and resume his position.

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One who is not engaged in the same line and character of work as that of superintendent of the state school for the blind is ineligible under Rule VIII, Section 2 of the State Civil Service Commission, which by G. C. Section 486-7, as enacted in 103 v. 698 (700), had the force and effect of law, for promotion to such position of superintendent of the state school for the blind: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

Since this section, as enacted in 103 v. 698 (700), provided that the rules of the state civil service commission shall have the force and effect of law, Rule VIII, Section 2, which provides, "No person shall be eligible for promotion from a position in any grade to fill a vacancy in the next higher grade unless the position in which he is employed at the time of the examination is in the same line and character of work as the position to be filled," deprives the civil service commission of power to certify one for promotion who is not employed, at the time of the examination, in a position in the same line and character of work as the position to be filled: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

Under G. C. Section 486-11, which authorizes the state civil service commission to pass upon questions of the physical ability of applicants, the state board of administration cannot declare that one who is totally blind is physically unfit for the position of superintendent of the state school for the blind; although such physical disability may be considered by the board of administration in making its appointment from the certified list under G. C. 486-13: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

Under this section it is for the state civil service commission to determine whether an applicant is physically disabled so as to be rendered unfit for the performance of the duties which he seeks; and appointing officers, such as the state board of administration, have no power to determine such question. The appointing power, such as the board of administration, however, has the right to take into consideration the physical condition of applicants in making its selection from the certified list under G. C. Sec. 486-13: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

After the state board of administration has requested the state civil service commission of Ohio to furnish it a list of names of persons eligible for appointment to the position of superintendent of the state school for the blind, it cannot be heard to claim that it is not practicable to determine the merit and fitness of applicants for that position by competitive examination: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

The appointing authority may demand that the civil service commission certify a list containing at least three names, before

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486-1- making an appointment, but where a list is submitted containing
486-31. less than three names and the appointing authority accepts the list and makes the appointment, such appointment is valid: State, ex rel., v. Lesser, 94 O. S. 387.

No. 1180. April 24, 1920. To the State Civil Service Commission:

Civil Service—Persons occupying positions in classified service—Section 486-23 G. C. applicable—Political activity of such persons prohibited.

Lack of money with which to pay a salary is not a ground of removal. Steubenville v. Boucher, 10 Ohio App. 178, 29 O. C. A. 415, 31 O. C. D. 164.

An honest mistake in judgment is not misbehavior, such as to justify removal from office: State v. Roll, 1 Dec. Rep. 298, 7 W. L. J. 121.

The misconstruction of a statute, about which there may be an honest difference of opinion, is not such evidence of incompetency as to warrant the removal of an officer. State, ex rel., v. Hoglan, 64 O. S. 532.

The state civil service commission in the hearing of an appeal from an order of removal of an employe, under the provisions of G. C. Section 486-17a (106 v. 412), is limited to a consideration and determination of the existence of the statutory ground or grounds upon which the order of removal was based by the appointing authority: State ex rel., v. Board of Agriculture, 95 O. S. 276.

The provision of G. C. Section 486-17a, that in all cases of removal the appointing authority shall furnish the employe its reasons for the order of removal, is mandatory and the failure of the appointing authority to comply with this provision is fatal to such order and the same is a nullity: State, ex rel., v. Board of Agriculture, 95 O. S. 276.

Since an appeal to the state civil service commission can be taken only within ten days, the act of the removing officer in sending a written statement to the state civil service commission two months after the removal and furnishing a copy of such statement to the officer who is removed three months after such removal, is not a compliance with the provisions of this section which requires the appointing authority, in case of removal, to furnish the employe with a copy of the order of removal and his reasons for the same: State, ex rel., v. Board of Agriculture, 95 O. S. 276.

Mandamus will lie to compel the superior officer to recognize, as an employe, one who has been removed without legal cause: State, ex rel., v. Fosdick, 25 O. C. C. (N. S.) 241.

Under G. C. Section 486-17a the discharged employe must exhaust his remedies under the civil service law before the court has jurisdiction. This section is mandatory and unless complied with the employe is without remedy at law: State, ex rel., v. Fosdick, 15 O. N. P. (N. S.) 630.

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Since this section provides for the removal of a public officer or employe for certain specified grounds, and provides for furnishing him with a copy of the order of removal and of the reasons for ordering such removal, no right of appeal is secured to an employe who is removed for any reason other than those specified in the statute and to whom no copy of the order of removal or the reasons for such order is given. Accordingly, such employe may maintain an action in mandamus to compel his superior officer to show cause why the plaintiff should not be permitted to continue to hold such office; and demurrer will not lie to a petition in mandamus which alleges such facts: *State, ex rel., v. Bigbee*, 20 O. N. P. (N. S.) 113, 28 O. D. (N. P.) 46.

486-18. The records of efficiency which are to be made by each department are not the efficiency records of the civil service commission, which are to be made up by the civil service commission from its own investigation.

1352-1. Division of Charities

A minor child is surrendered by its parents, non-residents of Ohio, to a society incorporated under the laws of New York for the purpose of caring for and placing children. Said New York society placed said child with a family residing in Cleveland, Ohio, which family now desires to adopt said child in accordance with the adoption laws of Ohio.

The department of public welfare, through the division of charities, may, under authority of section 1352-1 G. C. investigate and certify a child-caring organization incorporated under the laws of another state and desirous of placing children in private homes in the state of Ohio.

However, such non-Ohio organization, before placing children in Ohio, must first comply with the provisions of section 1677 G. C.

Under the provisions of section 8025 G. C., paragraph "f", said New York society can give the legal consent to the adoption in Ohio of said child, if and when said society has received the certificate mentioned in section 1352-1 G. C. and has fully complied with the provisions of section 1677 G. C. *Op. Atty. Gen.* (1922), p. 517.

There is no statutory duty imposed upon the board of state charities to prosecute violation of section 1352-1 G. C. for receiving children or soliciting money on behalf of an institution not having the certificate of the board, enabling it to assume the care of children, but in the nature of the case it is appropriate for the department to enforce the observance of this law and inaugurate prosecution for its violation. *Op. Atty. Gen.* (1918), p. 359.

1352-3. In cases where the Board of State Charities transfers its wards to the Soldiers' and Sailors' Orphans' Home, the guardian-

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ship of the board, as provided in section 1352-3 G. C., does not cease.

When children are transferred from a county, district or semi-public children's home, or other institution, to the Board of State Charities, there is no provision of law whereby said children may be re-transferred by the Board of State Charities to the district home or other institution from which they came. Op. Atty. Gen. (1918), p. 1249.

No. 2900. February 25, 1922. To the Bureau of Inspection and Supervision of Public Offices:

Dependent children, temporarily committed by the juvenile court, to the care and custody of the board of state charities (now Department of Public Welfare, Division of Charities), under the provisions of section 1672 G. C. may in turn be placed temporarily in the home of a mother or parent by said board under the provisions of section 1352-3 G. C. for a period of time not to exceed twelve months, subject to the court's approval, when the mother or parent is morally a fit custodian, and the home provided by her is free from evil influences which may be considered detrimental to the child's welfare.

In accordance with Section 1352-3 G. C., a dependent child may be placed in the home of its parents provided said parents are morally responsible. Attorney General sustains procedure of department in placing dependent (not delinquent) children in the home of their parents and charging the county for clothing, board, and other necessary supplies.

Opinion July 26, 1921. To Department of Public Welfare:

Commitments made by juvenile courts should be to the Department of Public Welfare, Division of Charities.

1352-4. See Opinions of Attorney General No. 2900, (1922), cited under Section 1672.

Under the provisions of section 1352-4 G. C. the amount of board paid for the care of such child, and the expense of providing suitable clothing and personal necessities is chargeable by the board of state charities (now the Department of Public Welfare, Division of Charities) to the county from which such child was committed, and the duty of the county treasurer, upon the warrant of the county auditor to pay such expense, is mandatory.

1352-5. October 27, 1922. To the Department of Public Welfare:

1352-8. Expense incurred for treatment of crippled child must be paid by Board of Charities in first instance from Rotary Fund, which fund is subsequently reimbursed by payments received from county.

It is to be noted that section 1352-4 G. C. (109 O. L. 362) provides for charging board, etc. "to the county from which such child was committed or transferred as provided in sections

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1352-3, 1352-5 and 1352-8" (the last cited section referring to crippled children committed to the board of state charities temporarily for treatment). In other words, the obligation of the county under section 1352-4 G. C. extends only to children *committed* to the state's care. Children received by state institutions informally and not by virtue of a statutory proceeding are not included in said section.

The legislature has established the juvenile court in the exercise of its police power, to protect children and to remove them from evil influences: *Children's Home v. Fetter*, 90 O. S. 110.

Where a delinquent child has become a ward of the juvenile court and it has been committed to an institution, under the provisions of the General Code relating to the juvenile court, a proceeding in habeas corpus by a parent against the institution or its officers for the custody of the child will not lie: *Children's Home v. Fetter*, 90 O. S. 110.

1362- Commission for Blind
1366.

No. 456. July 24, 1917. To the Ohio Commission for the Blind:

The commission for the blind has authority under General Code Section 3666 to employ persons to sell the products of the industry of their said wards and to pay for making such sales either by salary or commission, or by a combination of both methods.

No. 1617. October 15, 1920. To the Ohio Commission for the Blind:

1. A person is not ineligible to admission to the county home merely because he or she is a blind imbecile.
2. The judge of the juvenile court, when satisfied that a blind child is not being properly educated at home, and will be benefited by attendance at the state school for the blind, and that such child is a suitable person to receive instruction therein, may, pursuant to section 7780 G. C., send or commit such child to the state school for the blind in the manner provided by law.
3. It is not illegal for blind inmates of county homes to perform labor for the Ohio Commission for the Blind at times when their services are not required by the superintendent or matron for the maintenance of the county home or the care of its inmates; nor is it illegal for the county commissioners to permit such inmates to retain for their own use insignificant sums of money received by said blind inmates from the Ohio Commission for the Blind as compensation for such labors.

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Opinion December 8, 1921. To the Department of Public Welfare:

Ohio Commission for the Blind is a part of the Department of Public Welfare for administrative purposes only, and authority of the Director of Public Welfare does not extend to the control of the functions or powers conferred upon or vested in the Commission for the Blind, but is limited to that expressly and specifically vested in him by Section 154-58.

1639- Juvenile Court

1683-1.

1642. Where the probate court, after acquiring jurisdiction over a minor child, orders it to be committed to the children's home of the county and there kept in custody until the further order of the court, without making an express finding that the child is dependent, and later awards the custody of the child to its mother, in a subsequent habeas corpus proceeding brought by the father against the mother, the common pleas court will not award the custody of the child to the father on the ground that the action of the probate court over the child continues during its minority: *State v. Metzgar*, 59 Bull. 45 (Ed.).

Because of the age limitation imposed by section 1653-1 G. C., a delinquent female minor child under the age of ten years cannot legally be committed to the Girls' Industrial School by the probate court, in the exercise of its juvenile jurisdiction.

Disposition of such a child should be made in one of the ways provided by sections 1652 and 1352-5 G. C. *Op. Atty. Gen.* (1919), p. 673.

The juvenile court has jurisdiction over and with respect to all delinquent, neglected and dependent minors within the county, and the fact that some or all of the acts of misconduct upon which a delinquency charge is based were committed outside of the county does not rob the court of its jurisdiction to determine the status of the child and proceed accordingly. *Op. Atty. Gen.* (1918), p. 840.

In the administration of the juvenile act, good policy in most cases suggests that the juvenile court of the county of the minor's residence be permitted to determine the minor's status.

Where a minor child under the age of eighteen years is a resident of A—— county, but while in W—— county violates a law of the state of Ohio, such minor may, as a matter of law, be proceeded against as a juvenile delinquent person in either the juvenile court of A—— county, or the juvenile court of W—— county.

1642. The court first acquiring the jurisdiction would, however, retain it to the exclusion of any other court, until the case were finally disposed of. *Op. Atty. Gen.* (1919), p. 648.

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A minor of the age of 17 years commits an act of delinquency and in so doing is induced and aided by an adult. Affidavits are filed against both the minor and the adult. Each is apprehended and brought into court, being served with proper process for that purpose. By order of the court said cases are continued for a period of one month. In the meantime said minor arrives at the age of 18 years. Held: That while this question is not free from doubt, the liberal construction required by section 1683 G. C. to be given the juvenile act suggests the desirability of applying the following as the proper administrative rule, until court decision holds contra: That the juvenile court does not lose its jurisdiction over said minor nor over the adult defendant, but may proceed to hear and determine said cases, even though said minor is not, at the time of said hearing and determination, under the age of 18 years. Op. Atty. Gen. 1079. March 16, 1920.

The juvenile court has no jurisdiction in a bastardy proceeding, even where the defendant and the mother of the child are under 16 years of age. Op. Atty. Gen. (1917), p. 2228.

A boy came into the custody of the juvenile court prior to his becoming eighteen years of age and was placed on probation by the court upon certain conditions. After arriving at the age of eighteen years he violated this probation. Held, if the violation of probation in this case consisted of a violation of some rule of conduct imposed by the juvenile court upon this boy prior to his becoming eighteen years of age, the juvenile court can now deal with such boy in exactly the same manner as if he were still under eighteen years of age, except that the court is without authority to commit such boy to the boys' industrial school. If, however, the violation of probation consisted of the commission of some offense against the state laws or local ordinances since such boy became eighteen years of age, the juvenile court has no jurisdiction in the punishment of such offense and the boy should be proceeded against in the same manner and in the same court as though he were an adult. Op. Atty. Gen. (1917), p. 1914.

Under this section the jurisdiction over an incorrigible child continues until he attains the age of twenty-one: *Children's Home v. Fetter*, 90 O. S. 110.

Under this section a court may make an order permitting an incorrigible child to make his home with his father on certain days of the week, and with his mother on the remaining days of the week, subject to certain conditions and provided that final judgment of commitment to any other person, place, or institution, should be suspended as long as such child should comply with such conditions, in the opinion of the judge, without losing jurisdiction of such case; and the court may thereafter remove such child from the custody of its parents and commit it to a county children's home: *Children's Home v. Fetter*, 90 O. S. 110.

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1643. Under section 1643 G. C., for all necessary purposes of discipline and protection, when a child under the age of eighteen years comes into the custody of a juvenile court, under the provisions of the juvenile court act, such child shall continue a ward of the court and under its continuing jurisdiction until such child attains the age of twenty-one years or is adopted under section 1672 G. C., and such facts being made to appear in a juvenile court of another county in a subsequent proceeding therein, the latter court is without jurisdiction to permanently commit said child under section 1653 et seq. G. C., but pending the final hearing may make necessary orders for the temporary well being of such child. *Op. Atty. Gen. (1919), p. 591.*

Dependent girls committed by the juvenile court to the temporary care and custody of the board of state charities, remain under the legal control and guardianship of the court until they attain the age of twenty-one years, should such commitment for temporary care endure that length of time. *Op. Atty. Gen. 1595. September 27, 1920.*

1644. In a prosecution for contributing to the delinquency of a minor, the affidavit, in order to charge a crime, must allege that the minor is under eighteen years of age, and is a delinquent within the meaning of the statute, and that the defendant is guilty of contributing to such delinquency: *Willison v. State, 3 Ohio App. 244, 21 O. C. C. (N. S.) 526.*

Where the charge of the court, taken in its entirety, is such that it is evident that the jury understood it in a manner so as to apply the law correctly, it will not be held erroneous, even though it contains some statements that are not strictly clear or proper: *Smith v. State, 14 O. C. C. (N. S.) 257, 24 O. C. D. 661.*

A person owning and conducting a house of ill-repute is guilty of contributing to the delinquency of a minor under seventeen years of age, where it is shown that such minor was admitted by a person apparently acting as a servant or employee and making no inquiry as to the age of the minor: *Smith v. State, 14 O. C. C. (N. S.) 257, 24 O. C. D. 661.*

Delinquency has not been declared a crime in Ohio, and the Ohio juvenile act is neither criminal or penal in its nature, but is an administrative police regulation of a corrective character; and while the commission of a crime may set the machinery of the juvenile court in motion, the accused was not tried in that court for his crime, but for incorrigibility: *In re Januszewski, 196 Fed. 123, 10 O. L. R. 151.*

The keeper of a pool table in a pool room at a public place where no billiard tables are kept, who permits a minor under the age of eighteen years to be and remain in such pool room, is amenable to criminal prosecution under sections 12962 and 12963 of the General Code of Ohio. *Op. Atty. Gen. (1919), p. 320.*

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When the juvenile court finds a girl over 16 years to be delinquent, such court is not required to send her to the Ohio Reformatory for Women, but may, if it sees fit, send her to such institution or to the Girl's Industrial School, or other institution for juvenile delinquency. *Op. Atty. Gen. (1917)*, p. 974.

When a juvenile court has found a minor to be delinquent such court may impose a fine not exceeding \$10.00, by reason of the provisions of section 1654 General Code.

There is no provision in law for appealing or prosecuting error from the judgment of a juvenile court.

A juvenile judge has exclusive jurisdiction in all but felony cases with respect to minors under 18 years of age. *Op. Atty. Gen. (1917)*, p. 1586.

1645. No. 1543. May 5, 1916. To Board of State Charities:

When illegitimate child is "dependent child" under section 1645 G. C. juvenile court of county in which child is found has jurisdiction in such case.

1647. General Code §§ 1647 and 1648, conferring on juvenile courts authority to determine cases involving delinquent, neglected and dependent children, do not supersede G. C. § 11987, empowering common pleas courts to make orders for the disposition, care and maintenance of children of parents involved in divorce proceedings: *Orphan Asylum v. Soule*, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing in re *Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].

A court of common pleas, having made an order concerning the disposition of a minor child of parents involved in divorce proceedings, has continuing jurisdiction of such child, precluding a juvenile court from taking independent jurisdiction thereof. If the best interests of the child demand a change of custody the proper procedure is by application to the common pleas court to modify its former order: *Orphan Asylum v. Soule*, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing in re *Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].

The principle that the court first obtaining jurisdiction of a subject-matter retains exclusive jurisdiction and authority until final disposition, applies to jurisdiction of a dependent child, concerning which a common pleas court has made an order for the custody in divorce proceedings, and a juvenile court has no authority to make an order for the disposition of such child: *Orphan Asylum v. Soule*, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing in re *Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].

1650. This section, which authorizes the judge to determine the question of delinquency without a jury, is not rendered invalid by Art. I, § 5, of the constitution of Ohio, which provides that the

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right of trial by jury shall be inviolate; nor is it rendered invalid by the fourteenth amendment to the constitution of the United States, which provides that no one shall be deprived of life, liberty, or property, without due process of law: *In re Januszewski*, 196 Fed. 123, 10 O. L. R. 151.

Inasmuch as the privileges and immunities of a citizen of the United States do not include the right to trial by jury in a state court even for a state offense or the right to be exempt from trial for an infamous crime except upon presentment by a grand jury, it follows that a jury trial is not essential in all cases to due process of law; and the commitment of the petitioner to the boys' industrial school for incorrigibility by the juvenile court of Cuyahoga county was not rendered invalid by reason of the fact that it was without the intervention of a jury, notwithstanding the charge in the affidavit upon which he was arrested was that he was a delinquent in that he maliciously and purposely shot R. M. with intent to kill. *In re Januszewski*, 196 Fed. 123, 10 O. L. 151.

1652. No. 319. May 3, 1915. To Judge of Juvenile Court, Byran, Ohio:

Juvenile court judge is without authority to commit youth over eighteen years of age to Boys' Industrial School, notwithstanding status of delinquency attached to youth prior to arriving at age of eighteen.

No. 1028. November 17, 1915. To Prosecuting Attorney, Wapakoneta, Ohio:

Expenses of requisition in apprehending a person charged with commission of felony who proves to be a juvenile and is tried in juvenile court and sentenced to Ohio State Reformatory, cannot be paid by state, but are paid by county.

No. 1258. February 10, 1916. To Prosecuting Attorney, Akron, Ohio:

If upon the hearing of a delinquent male child, it appears that his delinquency is due to his having committed a felony and he is *at the time of the hearing* sixteen years of age or over, he may be committed to the Ohio State Reformatory.

Under this section a court may make an order permitting an incorrigible child to make his home with his father on certain days of the week, and with his mother on the remaining days of the week, subject to certain conditions and provided that final judgment of commitment to any other person, place or institution should be suspended as long as such child should comply with such conditions, in the opinion of the judge, without losing jurisdiction of such case; and the court may thereafter remove such child from the custody of its parents and commit it to a county children's home: *Children's Home v. Fetter*, 90 O. S. 110.

This section is not in conflict with G. C. § 1681. This section provides a different place for the confinement of delinquent chil-

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1652. dren over sixteen years of age from the places of confinement to which other delinquent children may be committed, namely to the Ohio state reformatory; while G. C. § 1681 provides that delinquent children of any age charged with a felony may be indicted and subjected to the provisions of the general criminal statutes: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 422 [citing *Prescott v. State*, 19 O. S. 184].

The provisions of the General Code relating to delinquent children are reformatory in their nature and not penal. Accordingly, the provisions of this section that, "where it appears upon the hearing that such delinquent child is sixteen years of age, or over, and has committed felony" he may be committed to the Ohio state reformatory, are not unconstitutional: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 [citing *Prescott v. State*, 19 O. S. 184].

The Ohio state reformatory is a prison for persons who are convicted of felonies and committed thereto by a sentence of the court following such conviction; while for delinquent children who have been committed thereto after having committed an act which constitutes a felony, it is only a school or place of reformation: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 [citing *Prescott v. State*, 19 O. S. 184].

General Code § 1681 is discretionary and not mandatory, and a delinquent child charged with a felony may be committed as provided in this section or recognized to the court of common pleas, subject to the requirements of the general criminal laws of the state, at discretion of the juvenile judge: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 [citing *Prescott v. State*, 19 O. S. 184].

In case of the separation of parents, the custody of an epileptic son who is twenty years of age and an inmate of an epileptic hospital will be granted to the father, the evidence showing that he is a suitable and proper person to look after the interests of such child: *Patterson v. Patterson*, 12 O. N. P. (N. S.) 601, 57 Bull. 273 (Ed.).

If husband and wife have separated, the custody of the children is to be granted so as to secure the best interests of such children: *Patterson v. Patterson*, 12 O. N. P. (N. S.) 601, 57 Bull. 273 (Ed.).

Repugnancy of a state statute to the constitution of the state does not afford ground for the granting of a writ of habeas corpus by a federal court upon application of one convicted thereunder, unless the petitioner is in custody by virtue of such statute and the statute is in conflict with the constitution of the United States: *In re Januszewski*, 196 Fed. 123, 10 O. L. R. 151.

A boy over sixteen years of age is committed to the Ohio state reformatory by the juvenile court by virtue of section 1652 of the General Code. The state is not liable for the costs in the

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case. Such costs must be paid from the county treasury upon the certificate of the juvenile judge, as provided in section 1682 G. C. Op. Atty. Gen. (1918), p. 324.

See Opinions of Attorney General as follows:

(1917), p. 1914, cited under Sec. 1642.

(1919), p. 673, cited under Sec. 1642.

(1917), p. 974, cited under Sec. 1644.

- 1653.** The probate courts of this state acting as juvenile courts under the provisions of G. C. § 1639 et seq., are courts of record and their judgments, where jurisdiction of the person and subject-matter has been acquired and no fraud has intervened, are conclusive and can be assailed in no other court in an independent proceeding: *Children's Home v. Fetter*, 90 O. S. 110.

The juvenile judge has no authority to contract with physicians for medical attention to be rendered a pauper ward of the court nor any authority to contract with a hospital for treatment or care of such patient. Op. Atty. Gen. (1917), p. 739.

See Opinions of Attorney General (1919), p. 591, cited under Sec. 1643.

Section 1653 G. C. while authorizing commitments by the juvenile court of dependent and neglected children to the care of suitable private individuals of good moral character, makes no provision in such cases for payment by the county commissioners of the board of such committed children. Op. Atty. Gen. (1922) p. 148.

Section 3092 G. C. as amended in 109 O. L., p. 533, confers no authority upon county commissioners to pay the board of neglected and dependent children committed by the juvenile court to the care of private families or individuals in counties where a county children's home is provided. Op. Atty. Gen. No. 2915, March 9, 1922.

Opinion 2915. March 9, 1922. To the Division of Charities:

- 1653-1.** County Commissioners are responsible for payment of board of children who are wards of juvenile court *only* when there is no county children's home and it becomes necessary to place the child in a children's home in another county.

The sheriff is not the proper officer to convey girls to the Girls' Industrial School, and if he performs such service he may not collect any fee therefor. The proper officer to render such service is the probation officer, and there must be at least one probation officer in every county. The expenses of such transportation are payable out of the county treasury on the certificate of the juvenile judge, as provided in section 1682. Op. Atty. Gen. (1918), p. 341.

See Opinions of Attorney General as follows:

(1919), p. 673, cited under Sec. 1642.

(1917), p. 1914, cited under Sec. 1642.

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1654. Where a person has been in jeopardy upon an information or affidavit charging that he contributed to the moral delinquency of a female person in violation of G. C. § 1654, such jeopardy can not be successfully pleaded as a bar to a prosecution by indictment on a charge of rape under G. C. § 12143. The provision of the constitution relating to jeopardy is in the following words: "No person shall be twice put in jeopardy for the same offense." The offense charged in the information is not the same offense and does not include the offense charged in the indictment, and hence the defense of jeopardy must fail: *State v. Rose*, 89 O. S. 383.

While G. C. § 12370, which provides that the word "imprisoned" means "imprisoned in the county jail" if the maximum term prescribed for the offense is one year, does not apparently apply to this section, since by its terms G. C. § 12370 deals with the interpretation of part four only, the word "imprisoned" as used in this section means "imprisoned in the county jail." Accordingly, G. C. § 4128 authorizes the court to commit offenders over sixteen years of age to the workhouse: *Walton v. State*, 3 Ohio App. 97, 19 O. C. C. (N. S.) 452.

General Code § 4128 authorizes the court to impose a sentence to the workhouse upon one who is convicted, under this section, of contributing towards the delinquency of a minor under seventeen years of age: *Walton v. State*, 3 Ohio App. 97, 19 O. C. C. (N. S.) 452.

A person owning and conducting a house of ill-repute is guilty of contributing to the delinquency of a minor under seventeen years of age, where it is shown that such minor was admitted by a person apparently acting as a servant or employee and making no inquiry as to the age of the minor: *Smith v. State*, 14 O. C. C. (N. S.) 257, 24 O. C. D. 661.

See Opinions of Attorney General as follows:

(1917), p. 1586, cited under Sec. 1644.

(1919), p. 320, cited under Sec. 1644.

1657. A juvenile under fourteen years of age may not, pending final disposition of his case, be confined in a cell in the upper part of the county jail even though such cell is separate and apart from the county jail proper. *Op. Atty. Gen.* (1918), p. 1592.

It is necessary that the trial of the accused, under the juvenile court laws, who has been committed pending the final disposition of the case, be commenced within four days of such commitment, unless otherwise requested by the defendant. *Op. Atty. Gen.* (1918), p. 160.

A warrant of the court is not authority for the sheriff or probation officer to arrest a delinquent child outside the state of Ohio. There is no provision in law for the payment of the expenses of the sheriff or probation officer in pursuing and arresting such child outside the state. *Op. Atty. Gen.* (1918), p. 980.

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See Opinions of Attorney General (1919), p. 1433, cited under Sec. 1682.

The probation officer may be directed by the juvenile court to take juvenile delinquents to such places as they are by such court lawfully committed.

For the performance of such services, such probation officer is not entitled to the fees provided by law for sheriffs in like cases. Op. Atty. Gen. (1919), p. 480.

See Opinions of Attorney General as follows:

(1918), p. 341, cited under Sec. 1653-1.

(1917), p. 1361, cited under Sec. 1671.

No. 2497, (1921), cited under Sec. 7769-1.

(1919), p. 648, cited under Sec. 1642.

(1919), p. 480, cited under Sec. 1662.

(1918), p. 341, cited under Sec. 1653-1.

- 1663.** Upon consideration therefore, it would seem conclusive that the duties of the officers considered are incompatible, and that a chief of police of a city may not lawfully perform the duties of a probation officer, or receive the compensation of such an officer while acting in the capacity of chief of police. Op. Atty. Gen. No. 2874, Feb. 20, 1922.

- 1670.** Under sections 1670 and 1671 G. C., upon the advice and recommendation of the juvenile judge, the commissioners should provide, by purchase or lease, a detention home, and in counties having a population less than forty thousand the commissioners are authorized to provide the necessary persons to care for said home and for the children therein. Op. Atty. Gen. (1917), p. 1518.

The board of education of a school district, in which is located a county detention home, established in conformity with section 1670 G. C., has authority to forbid the attendance of the inmates of the county detention home at the public schools of the district, since section 1670 G. C. provides that the superintendent and matron in a county detention home shall be persons "qualified as teachers of children." Op. Atty. Gen. (1921), p. 942.

See Opinions of Attorney General as follows:

(1919), p. 1433, cited under Sec. 1682.

No. 2492, (1921), cited under Sec. 7676.

- 1671.** The proper fund mentioned in section 1671 General Code is considered to be a juvenile court fund from which all the expenses of the juvenile court are paid and such expenses include the salary of the probation officer.

Section 1682 G. C. makes provision for the payment of all necessary incidental expenses of the juvenile court and its officers and the probation officer is considered an officer of such court. Op. Atty. Gen. (1917), p. 1361.

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See Opinions of Attorney General (1917), p. 1518, cited under Sec. 1670.

An orphan asylum or children's home organized under the laws of this state may give consent to the adoption of an inmate thereon, provided it was voluntarily surrendered to the institution or was previously abandoned by its parents. In no case does a private institution for the care and support of minor children become the legal guardian of the inmates of the institution, and therefore has no authority to grant consent to the adoption of the inmates of the institution, excepting under the order of the juvenile court as set out in Section 1672 G. C. Op. Atty. Gen. (1918), p. 1598.

- 1672.** Dependent children, temporarily committed by the juvenile court, to the care and custody of the board of state charities (now department of public welfare, division of charities), under the provisions of section 1672 G. C. may in turn be placed temporarily in the home of a mother or parent by said board under the provisions of section 1352-3 G. C. for a period of time not to exceed twelve months, subject to the court's approval, when the mother or parent is morally a fit custodian, and the home provided by her is free from evil influences which may be considered detrimental to the child's welfare.

Under the provisions of section 1352-4 G. C. the amount of board paid for the care of such child, and the expense of providing suitable clothing and personal necessities is chargeable by the board of state charities (now the department of public welfare, division of charities) to the county from which such child was committed, and the duty of the county treasurer, upon the warrant of the county auditor to pay such expense, is mandatory. Op. Atty. Gen. No. 2900, Feb. 25, 1922.

See Opinions of Attorney General (1919), p. 591, cited under Sec. 1643.

April 15, 1922. February 21, 1923. To the Department of Welfare:

The jurisdiction of the juvenile court is in no way affected by transfers within the Department of Public Welfare.

As long as the Division of Charities has custody of a girl by virtue of a temporary commitment of the juvenile court, such girl may be held by the board until she becomes 21 years of age.

Minor Dependent Children

Op. Atty. Gen. July 21, 1922. To the Department of Public Welfare:

Court *first* acquiring jurisdiction, *holds* it.

- 1680.** Under sections 1680 and 3011 et seq. as amended in H. B. 294 (108 O. L. Part II, 1203), the payment of witness fees in juvenile cases of \$1.00 and five cents for each mile is authorized, the vouchers for which need not be verified by the oath of the probate judge. Op. Atty. Gen. (1920), p. 728.

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This section is discretionary and not mandatory, and a delinquent child, charged with a felony, may be committed as provided in G. C. § 1652 or recognized to the court of common pleas, subject to the requirements of the general criminal laws of the state, at the discretion of the juvenile judge: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 [citing *Prescott v. State*, 19 O. S. 184].

- 1681.** General Code § 1652 is not in conflict with this section. G. C. § 1652 provides a different place for the confinement of delinquent children over sixteen years of age from the places of confinement to which other delinquent children may be committed, namely to the Ohio state reformatory; while this section provides that delinquent children of any age charged with a felony may be indicted and subjected to the provisions of the general criminal statutes: *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 [citing *Prescott v. State*, 19 O. S. 184].

There is no statutory authority for the purchase, with county funds, of an automobile for the use of a probation officer of the juvenile court.

A probation officer may use his own automobile in the course of the performance of his official duties and be reimbursed, in the manner provided by section 1682 G. C., for the expense of gasoline and oil paid for by him in connection with such use of said automobile. *Op. Atty. Gen. (1919)*, p. 1433.

- 1682.** Where delinquent juveniles are sentenced to the Boys' Industrial School or Girls' Industrial Home, the costs of the case and the expense of transporting said juveniles to the place to which they have been committed, are, pursuant to Section 1682 G. C., payable by the county and not the state.

There is no statutory authority permitting a justice of peace or mayor to bind over a minor under the age of eighteen years to the court of common pleas to await the action of the grand jury, and no fees may be legally taxed or paid in connection with any attempt by such officers to bind over such persons. A mayor or justice of peace has no jurisdiction to dispose of a case against a minor under eighteen years of age other than transfer the case to the juvenile judge. Fees and costs originally made, are to follow the case for allowance and payment under section 1682 G. C. *Op. Atty. Gen. (1921)*, p. 114.

1683-2— Mothers' Pensions

1683-9.

A foster-mother is not a mother within the meaning of section 1683-2 of the General Code relating to mothers' pensions. *Op. Atty. Gen. (1920)*, p. 181.

Under the provisions of the law relating to mothers' pensions, the widow of an unnaturalized person is entitled to a pension under the same conditions as is the widow of a naturalized citizen. *Op. Atty. Gen. (1917)*, p. 268.

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1683-2. The residence of a mother and her children for three years in one county of this state immediately prior to a residence of one month in another county of this state meets the requirement of section 1683-2 G. C., 103 O. L. 877, as to the mother and children having legal residence in any county for two years, and if in all other respects qualified, the mother may be granted an allowance under said section in the latter county. Op. Atty. Gen. (1916), p. 1549.

When a man, having a legal residence in this state, removes with his family to another state with no intention of making the latter state his home and with no intention of abandoning his residence in this state, he does not thereby lose his legal residence in this state by reason of an actual residence of four years in the state to which he removes. If, therefore, upon his death his wife and children return to their former home in this state they have the necessary qualifications as to residence required by section 1683-2, G. C., as amended 106 O. L., 436, providing for mothers' pensions. Op. Atty. Gen. (1916), p. 314.

County commissioners are without authority to extend aid to children in their own homes rather than in children's homes established by counties. The proper place to care for children who may require such aid is in children's homes, the only exception being in the case of the awarding of relief under the Mothers' Pension Act, sections 1683-2 to 1683-9 G. C. Op. Atty. Gen. (1916), p. 713.

See Opinions of Attorney General as follows:

(1917), p. 334, cited under Sec. 1683-3.

(1919), p. 52, cited under Sec. 1683-8.

Jurisdiction to administer the Mothers' Pension Law is vested exclusively in the Juvenile Court and must be exercised by the Judge designated to transact the business of said court. Op. No. 38, Jan. 31, 1923.

1683-3. Section 1683-3 G. C. authorizes the juvenile court to make an allowance to a mother when in the absence of such allowance she would be required to work regularly away from her home or when in the absence of such allowance she would be required to be engaged regularly in outside employment in her own home. Op. Atty. Gen. (1917), p. 532.

(See Opinions of Attorney General (1917), p. 268, cited under Sec. 1683-2.

1815- Support of Inmates of State Institutions

1816. See opinion No. 1475 cited under Sec. 1947-1983.

No. 775. January 31, 1914. To Secretary, Board of State Charities:

Support of inmates of hospital for the insane. Where a woman is confined in a state hospital for the insane, and her husband is possessed of a sufficient income to pay for her support,

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- 1815-** as long as he is able to support her he must do so, regardless
1816. of the fact that she holds in her own name an estate sufficient to meet such expense.

No. 571. July 23, 1912. To Probate Judge, Ashland, Ohio:

Support of inmates of state institutions. The charge made by the state for the care and keeping of a patient in a state institution begins when the person becomes an inmate. Under Section 1815-4 G. C., the same charge for inmates being cared for at the time of the passage of this law became payable from May 2, 1910, i. e., the day when the act became a law.

No. 1320. March 4, 1916. To Board of State Charities:

Tubercular patients at Ohio State Sanatorium—when county commissioners liable for support of such patients.

No. 172. April 6, 1917. To the Auditor of State:

Sections 1815 and 1816 of the General Code apply only to benevolent institutions, therefore do not apply to the Girls' Industrial Home at Delaware. For this reason the counties of the state can not be compelled to reimburse the state for the expense of clothing inmates of such institutions.

Under this section, the expense of furnishing clothing is chargeable on the estates of patients, or on those who would be legally bound to furnish clothing, if they were not in an asylum or institution: *State v. Kiesewetter*, 37 O. S. 546.

No. 1156. April 16, 1920. To the Ohio Board of Administration:

Where a minor is committed by the juvenile court pursuant to section 1841-1 G. C. (103 O. L. 175), to the care and custody of the Ohio board of administration, as one requiring "state institutional care and guardianship", and said board of administration subsequently assigns said child to the institution for the feeble-minded, the county from the juvenile court of which said minor was committed, is responsible for said minor's support while he or she is in said institution for the feeble-minded.

No. 1475. August 3, 1920. To the Ohio Board of Administration:

When a person has been committed by the juvenile court to the board of administration for examination by the bureau of juvenile research and has by that bureau been declared to be insane and recommended to be assigned to a hospital for the insane for observation and treatment, such person is legally in said institution.

Clothing furnished such person so received by the superintendent of an institution for the insane may not be charged against the county of said person's legal residence, under section 1962 G. C.

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Nos. 279 and 280. April 13, 1912. To Superintendent State School for the Deaf, and Superintendent State School for the Blind:

Incidental expenses, gymnasium suits, clothing, dentistry and optician's services and special medical services, if not paid by relatives, shall be paid by school and collected from county.

Under this section, the expense of furnishing clothing is chargeable on the estates of patients, or on those who would be legally bound to furnish clothing, if they were not in an asylum or institution: State v. Kieswetter, 37 O. S. 546.

The amount due from each county for the support of inmates therefrom in the state institution for the feeble-minded youth should be determined and the claim therefor presented and paid as prescribed by G. C. Section 1815-12. Presentation of such claim to and allowance by the board of county commissioners is not required: State, ex rel., v. Huwe, 103 O. S. 546.

The repeal of P. & A. Sec. 1898 and the enactment of G. C. Sec. 1815-12 did not destroy an existing right of the state to recover from a county the amount due for the support of inmates therefrom in the state institution for feeble-minded youth: State, ex rel., v. Huwe, 103 O. S. 546.

1817- Non-resident Insane
1820.

No. 638. December 2, 1913. To Ohio Board of Administration:

Board may order transportation of non-resident person.

No. 491. June 11, 1915. To Ohio Board of Administration:

Expense of holding an inquest of lunacy is a county expense, regardless of legal residence.

No. 326. To the Bureau of Inspection and Supervision of Public Offices:

Under Section 1819 G. C., where the probate judge or superintendent finds that a person, whose commitment or admission to the state institutions referred to in section 1835 G. C., is requested, has not a legal residence in this state or his legal residence is in doubt or unknown, and such probate judge or superintendent is of the opinion that such person should be committed or admitted to such institution, upon notice as to such residence, as provided, in Sec. 1819, it becomes the duty of the Ohio Board of Administration to investigate the legal residence of such person and that board may transport such person to the place of his residence at the expense of the state, and such expense is *not* payable from county funds.

No. 922. October 13, 1915. To Probate Judge of Jackson, Ohio:

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Residence of twelve months in county is necessary to establish legal settlement required to make applicant for admission to insane hospitals eligible therefor, except in case of non-residents.

1817- A non-resident insane person whose insanity did not occur
1820. during the time of his or her residence in Ohio, is not entitled to admission into the state hospitals for the insane. Sections 1817-1820 and 1920 G. C. Op. Atty. Gen. (1921), p. 598.

No. 413. June 29, 1917. To the Probate Judge of Clark County:

Where a person lives in one county, and has a legal settlement in a township therein, the probate court of another county has no jurisdiction to commit said person to a hospital for the insane.

There is no authority for the payment of costs in the transportation of such person and a re-commitment to the hospital for the insane is necessary. This can be done by having the probate judge of the county in which such person has a legal residence visit the state hospital and after having satisfied himself of her condition return to his county and proceed with the commitment.

Patient should, if possible, be returned to the county of his legal residence for inquest and commitment to hospital.

If deemed improper on account of patient's condition, to return him to his own county for inquest, the probate judge of such county may visit the patient and certify that he has ascertained the condition of such patient by actual inspection (Sec. 1955 G. C.); then proceedings may be had in the probate court of the county of patient's legal settlement regularly committing him to the state hospital in that district; or to the hospital of the district in which the patient is being held, after authorization has been secured by application from the probate judge to the Department of Welfare to commit patient to a hospital outside his district.

If latter method is chosen, the probate judge may select two physicians from his own county, or two from the county where the patient is being held.

No. 764. November 7, 1917. To the Probate Judge of Logan County:

Residence is a question of mixed law and fact and change of residence is a question of intention and fact, or facts in the light of intention, and it may continue in a certain territory or jurisdiction, after actual connection with any particular spot therein has ceased.

Probate Judge has no jurisdiction to hold lunacy inquest on non-resident of county.

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No. 239. April 26, 1919. To the Probate Judge of Sandusky County:

- (1) A probate judge has, generally speaking, no power to make an adjudication of lunacy unless the person who is the subject of the inquest is a resident of the county wherein the probate court is situate.
- (2) Where a probate judge ascertains, after a lunacy affidavit is filed, that the alleged insane person is not a resident of the county wherein the lunacy proceeding is instituted, but of another county of the state, there is no statutory authority for the transfer of such person to the probate court of the county of his residence.
- (3) In such case it would be proper for the probate judge to communicate with the probate judge of the county of such alleged person's residence, to the end that a lunacy affidavit could be filed with the probate judge of the county of residence, and a warrant issued by said judge, under section 1954 G. C. to a suitable person, commanding him to bring the person alleged to be insane before him.

No. 1063. March 9, 1920. To the Probate Judge of Sandusky County:

A probate court has not jurisdiction in insanity cases where the residence of the alleged insane person is known unless said person has a legal settlement in the county. To acquire such a legal settlement the person must have lived in said county for a period of twelve consecutive months. However, in case the alleged insane person is a non-resident of the state, or his residence is unknown, the probate court may take jurisdiction for the purposes contemplated in sections 1819 and 1820 G. C.

1839. See opinions cited under Sections 23 and 23-1.

1840. Trust Funds

No. 300. May 21, 1913. To Ohio Board of Administration:

Special deposit of trust funds devised to Ohio Board of Administration with power to loan at interest may not be preferred in liquidation of insolvent bank.

No. 1064. December 3, 1915. To Ohio Board of Administration:

Board may not deposit trust funds devised to Ohio Board of Administration with a building and loan association.

1841-1- Juvenile Research

1841-5.

Op. Atty. Gen. January 30, 1923. To Department of Public Welfare:

The consent of committing judge is necessary to the permanent placement of a child in a foster home.

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Juvenile court's consent to the assignment or transfer of a child from the Bureau of Juvenile Research to the Division of Charities is not necessary, as such transfer is really a transfer within the Department of Public Welfare. Neither is the consent of the Juvenile Judge necessary in such transfers, for the same reason.

See Opinion April 15, 1922.

Where the juvenile court commits a dependent or delinquent child to the care and custody of the department of public welfare, and said department assigns said child to the bureau of juvenile research for the purpose of mental or physical examination, the director of public welfare may then assign and transfer such child from said bureau of juvenile research to the division in the department of public welfare known as the division of charities, and no consent on the part of said division of charities, as such, is necessary to such assignment or transfer.

Likewise held that the consent of the juvenile court to such assignment or transfer is also unnecessary.

Op. Atty. Gen. (1920) p. 436.

Where a minor is committed by the juvenile court pursuant to section 1841-1 G. C. (103 O. L. 175), to the care and custody of the Ohio board of administration, as one requiring "state institutional care and guardianship," and said board of administration subsequently assigns said child to the institution for the feeble-minded, the county from which said minor was committed, is responsible for said minor's support while he or she is in said institution for the feeble-minded.

Where a minor is committed by the juvenile court, pursuant to section 1841-1 G. C. (103 O. L. 175), to the care and custody of the Ohio Board of Administration, as one requiring "state institutional care and guardianship," and said board of administration subsequently assigns said child to the institution for the feeble-minded, said minor cannot be held at said institution after he or she reaches the age of twenty-one years, unless committed thereto by the probate court in the manner provided by section 1893 G. C. (108 O. L., Part I, 553.)

**1841-8- Department Authorized to Act as Commission in Lunacy.
1841-12. Transfers from One Institution to Another.**

Department of Public Welfare. June 21, 1923.

Department of Public Welfare has authority to enter a jail or other place of detention, examine into the mental condition of a person confined therein, and if upon examination such person is found to be insane, feeble-minded or epileptic, has authority to remove such person for care in a state hospital or institution under its jurisdiction; subject to provisions and limitations under Sections 1841-8, 1841-10; Reorganization Code Section 154-57 G. C.

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April 10, 1923. To the Director of Public Welfare:

A prisoner transferred from the Ohio Penitentiary to the Ohio State Reformatory is under the same regulations as to parole as before transfer, and a person who has been sentenced to the Ohio Penitentiary and later transferred to the Ohio State Reformatory is not legally eligible to parole before he has served the minimum sentence imposed by the trial court when he was sentenced to the Ohio Penitentiary.

A person does not become a ward of the state unless a statute exists which provides for that status. No statute has been found which says that a child born to a woman who is an inmate of a state institution thereby takes the status of the mother. We must therefore conclude that the children you refer to are not wards of the state merely because their mothers are. A transfer of such children can not be ordered by the Director of Public Welfare without having the case brought before the Juvenile Court. (Op. Attorney General, September 8, 1921.)

No. 1238. November 13, 1914. To Judge of Juvenile Court, Cleveland:

All persons committed to any institution under control of Board of Administration shall be considered as committed to the control, etc., of such board. Commitment by Juvenile Court of delinquent boys to Boys' Industrial School shall be made as before the passage of the Juvenile Research act, Sections 1841-1 et. seq.

1842. Institutional Officers and Employees—Appointment and Salaries

One who is not engaged in the same line and character of work as that of superintendent of the state school for the blind is ineligible under Rule VIII, §2, of the state civil service commission, which by G. C. §486-7 has the force and effect of law, for promotion to such position of superintendent of the state school for the blind: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

Under G. C. §486-11, which authorizes the state civil service commission to pass upon questions of the physical ability of applicants, the state board of administration can not declare that one who is totally blind is physically unfit for the position of superintendent of the state school for the blind, although such physical disability may be considered by the board of administration in making its appointment from the certified list under G. C. §486-13: State ex rel., v. Ohio Board of Administration, 92 O. S. 457.

After the state board of administration has requested the state civil service commission of Ohio to furnish it a list of names of persons eligible for appointment to the position of superintendent of the state school for the blind, it can not be heard to claim that it is not practicable to determine the merit

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and fitness of applicants for that position by competitive examination: State, ex rel., v. Ohio Board of Administration, 92 O. S. 457.

The chief matron of the girls industrial school is a public officer; and under the provisions of Art. II, §20 of the constitution of Ohio, the salary of such officer can not be changed during her existing term unless the office be abolished: State, ex rel., v. Campbell, 94 O. S. 403.

The term "officers," as used in Art. II, §20 of the constitution, includes both appointive and elective officers: State, ex rel., v. Campbell, 94 O. S. 403.

No. 804. September 8, 1915. To Auditor of State:

The approval of the salaries of all officers in writing by the governor as provided in Section 1842 G. C., 102 O. L., p. 214, is necessary to give validity to their appointments, and until such approval no salaries of officers appointed under said section are effective.

No. 1053. July 15, 1914. To Auditor of State:

Power of Board to regulate number and salaries of officers referred to in Section 2180 G. C. The repealing section of law creating the Board of Administration did not work a repeal of Section 2180 until August 15, 1911, and then repealed this section as amended March 31, 1911.

No. 780. August 28, 1915. To Industrial Commission:

Compensation for medical services rendered to injured employe of Boys' Industrial School valid. Although physician is employed to attend inmates of school, no obligation to attend employes of school without charge.

No. 1300. February 28, 1916. To Ohio Board of Administration:

The state or any officer or agent thereof may not be made a garnishee in an action before a justice of the peace against a state employe.

1845- Prison Industries—Articles to be Manufactured
1847.

See opinions cited under Section 1866.

No. 109. March 10, 1913. To Ohio Board of Administration:

Board may compel county and municipal officers to purchase articles manufactured by state institutions. Prices shall be uniform and no higher than usual market prices.

No. 1192. October 8, 1914. To Ohio Board of Administration:

Articles manufactured in Ohio Penitentiary may not be sold to other states.

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No. 1652. June 3, 1916. To Secretary of State.

Board may employ convict labor in Penitentiary and Reformatory to manufacture automobile license tags.

Op. Atty. Gen. (1918) p. 608:

The Ohio board of administration has no authority in law to manufacture lime with prison labor and sell the same to the city of Columbus.

No. 470. June 26, 1912. To Ohio Board of Administration:

Convict labor. State Highway Commissioner may contract for without advertising for bids. Cost of maintaining laborers devolves upon Board of Administration and can not be borne by department hiring same from the Board.

1855. Bond of Managing Officers

No. 474. September 15, 1913. To Ohio Board of Administration:

Board may require managing officer to give bond for himself and all subordinate officers under his control; subordinate officers should give bond to managing officer.

1866. Manufacturing Fund—Purpose—Earnings of Prisoners

See Sections 1845-1847.

No. 1192. October 8, 1914. To Warden, Ohio Penitentiary:

Articles manufactured in Ohio Penitentiary may not be sold to other states, or political divisions thereof, or to public institutions owned, managed or controlled by such states or such political divisions.

No. 533. August 27, 1913. To Ohio Board of Administration; No. 977. October 27, 1915. To State Highway Commissioner:

Board not authorized to sell in open market; limited to sale to state and political subdivisions and public institutions. Section 41, Article 2, Ohio Constitution invalidates that part of this section.

No. 1652. June 3, 1916. To Secretary of State:

Board may employ convict labor in penitentiary and reformatory to manufacture automobile license tags.

No. 116. March 2, 1915. To Auditor of State:

Receipts from the sale of manufactured articles under section 1866, G. C., must be turned into the state treasury, and an appropriation by the legislature must be made to make said receipts available.

No. 1909. August 10, 1914. To Auditor of State:

Earnings of prisoners at Ohio Penitentiary can not be seized to satisfy cost of judgment, but garnishee proceedings against Warden may be had to take money belonging to prisoner upon entering Penitentiary or sent to him during imprisonment by others.

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No. 1170. April 26, 1918. To the Board of Administration:
The Ohio Board of Administration has no authority in law to manufacture lime with prison labor and sell the same to the city of Columbus.

For provisions upon the subject of marking convict-made goods as such, see notes to G. C. §§6213 to 6218.

1867. Longview Hospital

(See Longview Hospital, Sections 2004-2034-7.)

No. 96. December 12, 1911. To Ohio Board of Administration:

Relationship of Board of Administration to Longview Hospital.

No. 741. January 29, 1914. To Ohio Board of Administration:

All the needs of Longview Hospital are to be met out of the appropriation for Maintenance.

Opinion Attorney General May 15, 1923. To Department of Public Welfare:

Controlling Board warranted in making allotment of funds to Longview Hospital from Institutional Building Fund.

The word "maintenance", as used in Section 1867 G. C., was used in a broad sense, and not in a technical, limited sense. So whether or not Longview Hospital be technically called a state institution, the fact remains that under existing statutes the Hospital is entitled to share in the apportionment of the maintenance appropriation; and by reference to the appropriation act in 109 O. L., designated as the institutional building fund, it will be observed that the specific classifications thereunder are but subdivisions of the grand division "maintenance", each one falling under "G. Additions and Betterments", a subdivision of maintenance.

1870. Annual Report

No. 220. April 8, 1913. To Ohio Board of Administration:

Board authorized to book but one comprehensive report as to all institutions under its control. Biennial reports of institutions discontinued.

1891- Institution for Feeble-Minded

1902.

No. 549. July 18, 1912. To Ohio Board of Administration:

Admission and discharge of inmates of Institution for Feeble-Minded shall be under rules and regulations established by Board of Administration.

No. 506. May 1912. To Bureau of Supervision and Inspection of Public Offices:

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Admission of adults and minors to Institution for Feeble-Minded; procedure; certificate of two medical witnesses required.

No. 216. April 23, 1913. To Superintendent, Institution for Feeble-Minded:

Inmates of Institution for Feeble-Minded may be retained after they reach majority.

No. 448. August 14, 1913, to Probate Judge, Chillicothe, Ohio:

Feeble-Minded persons other than adults may be admitted to Institution for Feeble-Minded by pursuing the same course of legal commitment as governs admissions to state hospitals for the insane.

No. 1156. April 16, 1920. To the Ohio Board of Administration:

- (1) Where a minor is committed by the juvenile court pursuant to section 1841-1 G. C. (103 O. L. 175), to the care and custody of the Ohio Board of Administration, as one requiring "state institutional care and guardianship", and said board of administration subsequently assigns said child to the institution for the feeble-minded, the county from the juvenile court of which said minor was committed is responsible for said minor's support while he or she is in said institution for the feeble-minded.
- (2) Where a minor is committed by the juvenile court, pursuant to Section 1841-1 G. C. (103 O. L. 175), to the care and custody of the Ohio board of administration, as one requiring "state institutional care and guardianship", and said board of administration subsequently assigns said child to the institution for the feeble-minded, said minor can not be held at said institution after he or she reaches the age of twenty-one years, unless committed thereto by the probate court in the manner provided by Section 1893 G. C. (108 O. L., Part I, 553).

October 25, 1922. To the Department of Public Welfare:

A child committed by the juvenile court to the care of the Department of Public Welfare, and assigned by said Department to the Institution for Feeble-Minded, the child can not be held at the Institution after he or she reaches the age of twenty-one years, unless committed thereto by the probate court in the manner provided by Section 1892 G. C. (108 O. L., Part I, 553.)

Where commitment by the probate court is contemplated, a child should be returned to the county and brought personally before the probate judge.

A probate judge may *not* go out of his own county to hold inquest.

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No. 2404. September 8, 1921. To the Department of Public Welfare:

Status of children born to inmates of the Institution for Feeble-Minded:

Not wards of the state even though the mothers are.

See opinion No. 742 cited under Section 1959 G. C.

1905— Ohio Soldiers' and Sailors' Home**1918.**

No. 610. November 14, 1913. To Governor:

Aid to O. S. & S. Home from U. S. Government must be placed to credit of general revenue fund.

No. 1216. January 29, 1916. To Ohio Board of Administration:

Ohio Soldiers' and Sailors' Home. Funds of deceased inmates; how disposed of—administrator or executor should be appointed.

No. 1227. February 1, 1916. To Ohio Board of Administration:

Erie County is to be regarded as the county of the residence of inmates of the Ohio Soldiers' & Sailors' Home. Probate courts of other counties have no jurisdiction to issue letters testamentary or letters of administration upon estates of deceased inmates, nor to appoint guardians. Administrator or executor should be appointed.

1919— Madison Home**1925.**

No. 1633. To Hon. James M. Cox, Governor of Ohio, December 23, 1918.

The property located in Madison township, Lake county, Ohio, sold to the National Women's Relief Corps is burdened with the trusts imposed upon it in said deeds to said Relief Corps. It therefore can not be sold so as to eliminate said trust conditions.

July 18, 1922. To the Department of Public Welfare:

Money left by inmates who die without heirs passes directly into State Treasury.

1931— Ohio Soldiers' and Sailors' Orphans' Home**1946-4.**

No. 1107. March 28, 1918. To the Supt. of the O. S. & S. O. Home:

Children of soldiers and sailors of the present war may be admitted into the home upon the same conditions as the children of soldiers and sailors of the civil war or the Spanish-American war.

No. 1490. October 1, 1918. To the Board of State Charities:

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1. In cases where the Board of State Charities transfers its wards to the Ohio Soldiers' & Sailors' Orphans' Home, the guardianship of the board, as provided in section 1352-3 G. C. does not cease.
2. When children are transferred from a county, district or semi-public children's home, or other institution, to the Board of State Charities, there is no provision of law whereby said children may be re-transferred by the Board of State Charities to the district home or other institution from which they came.
3. The Board of State Charities is not authorized in law to give consent to adoption provided for in section 8025 G. C. But it would be authorized to give the consent under the conditions as provided for in section 8024 G. C.

1947- Hospitals for the Insane**1983.**

(See opinions cited under Sections 1817-1820 G. C.)

No. 590. August 21, 1912. To Superintendent, Athens State Hospital:

Power of court to subpoena inmates of state hospitals before grand jury or compel superintendent to permit appearance.

No. 776. August 28, 1915. To Ohio Board of Administration:

Physician permanently employed in a state hospital not permitted to act as medical witness in case of inmates of such hospital.

No. 413. June 29, 1917. To the Probate Judge of Clark County:

Where a person lives in one county, and has a legal settlement in a township therein, the probate court of another county has no jurisdiction to commit said person to a hospital for the insane, the above facts appearing of record in the commitment proceedings.

There is no authority for the payment of costs in the transportation of such person and a re-commitment to the hospital for the insane is necessary. This can be done by having the probate judge of the county in which such person has a legal residence visit the state hospital and after having satisfied himself of her condition return to his county and proceed with the commitment. (Sec. 1955.)

No. 1486. September 28, 1918. To the Probate Judge of Franklin County:

1. When the probate judge issues a warrant to a sheriff or some other suitable person, under section 1954 G. C., to arrest and bring before him a person alleged to be insane, such warrant is authority for such sheriff or other suit-

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arrest should be paid under section 1981. If made by the sheriff, such sheriff may be allowed his expenses, including railroad fare and livery hire under section 2997. He may also be allowed \$1.00 for serving a warrant and 8 cents per mile for mileage under section 2845 G. C.

2. A warrant issued by the probate court to the sheriff or some suitable person, under section 1954 G. C., does not authorize such person or sheriff to make the arrest outside of Ohio and there is no provision for payment of any by a person other than the sheriff, the expense of such able person to make the arrest anywhere in Ohio. If made expense incurred in making the arrest in or returning such insane person from another state.
3. The probate judge of one county in Ohio may not hold an inquest of lunacy in any county but the county in which he is elected.

(See Opinion No. 239 under Sections 1817-1820.)

Opinion No. 741. October 24, 1917. To the Ohio Board of Administration:

An osteopath is not a physician within the meaning of sections 1954 and 1956 G. C., relative to lunacy proceedings.

Opinion No. 1319. July 1, 1918. To Bureau of Vital Statistics:

A chiropractor is not authorized to sign a death certificate under section 210 G. C., and he is not a "physician" as that term is used in said section.

Opinion No. 221. April 19, 1919. To the Prosecuting Attorney, Paulding, Ohio.

Probate Court—Lunacy affidavit filed—person wanders into another county—Sheriff of adjoining county incurs expenses in said arrest without having warrant—Held—No legal authority to pay expenses.

Opinion No. 1463. July 24, 1920. To Bureau of Inspection of Public Offices:

1. When under Section 1957 G. C. the medical certificate in a lunacy proceeding becomes void because the person named in such certificate is not admitted to a state hospital within ten days from the date of issue, a new inquest is not by that fact rendered necessary.
2. In such a case the same medical witnesses, if available, may execute a second medical certificate. Said witnesses are not, however, entitled to extra compensation for their services relative to such second certificate.
3. If, however, the medical witnesses who made the first certificate are not available to make a second certificate, when the first has been voided by lapse of time, the probate judge may issue subpoenas for two other medical witnesses, and

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cause them to execute the second medical certificate. In such case each of said medical witnesses would likewise be entitled to the fees provided by section 1981 G. C., to wit, "five dollars in full for all services rendered."

Op. Atty. Gen. (1920) p. 733.

Under sections 1956 and 1981, as amended in House Bill 294, the two physicians designated by the probate court to make the examination and certificate required, are entitled to a fee of \$5.00 when the person proceeded against is adjudged to be insane and are not entitled to such fee when such person is not adjudged to be insane.

1947-. Hunt v. State, 20 O. C. C. (N. S.) 111 [affirmed, without
1983. opinion, Hunt v. State, 88 O. S. 599].

Notwithstanding an enabling act authorizing the suit to be brought, a petition asking damages for the alleged wrongful act of a probate judge in adjudging the plaintiff insane and for acts of violence and other forms of mistreatment claimed to have been inflicted upon her by the officers and employees of a state hospital where she was committed, does not state a cause of action.

No. 298. May 20, 1913. To Probate Judge, Columbus, Ohio:

State hospitals for the insane. Power of probate court to commit and duty of hospital officials to receive. The only limitations upon the power of the probate court to commit are the statutory provisions providing for review on error and the restriction as to the full quota allowed to be received from each district.

No. 658. July 28, 1915. To Prosecuting Attorney, Gallipolis, Ohio:

Superintendents of general hospitals for the insane can not be compelled to accept persons who come within the statutory definition of an idiot.

Opinion No. 742. October 29, 1919. To the Prosecuting Attorney, Ottawa, Ohio:

A female person appointed by the probate judge to accompany the sheriff and a feeble-minded person to the institution for the feeble-minded is entitled to receive only such fees and allowances for expenses as are provided by Section 1981 G. C., as amended by H. B. 108, O. L. 262, to wit, a fee of two dollars, and mileage at the legal rate of railroad transportation for the distance actually and necessarily traveled. Expenses for meals can not be allowed such assistant.

A person appointed by the probate judge to convey a patient to the Ohio Hospital for Epileptics at Gallipolis is entitled to receive a fee of two dollars for such service and likewise

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traveling and "incidental expenses." "Incidental expenses" include reasonable expenses for the meals of such person.

(Sec. 2048 O. H. E.)

See Opinion No. 1387 under Section 1982.

Opinion 1475. August 3, 1920. To the Ohio Board of Administration:

When a person has been committed by the juvenile court to the board of administration for examination by the bureau of juvenile research and has by that bureau been declared insane and recommended to be assigned to a hospital for the insane for observation and treatment, such person is legally in said institution.

Clothing furnished such person so received, by the superintendent of an institution for the insane may *not* be charged against the county of said person's legal residence under section 1962 G. C.

1963. No. 674. August 2, 1915. To Probate Judge, Columbus, Ohio:

The probate judge must supply each patient sent to hospitals for insane with proper clothing, if same is not otherwise furnished. Clothing should be substantial.

Cited in support of the proposition that the jurisdiction acquired by the probate court in an inquisition of lunacy, under our statutes, continues until the discharge of the patient: *Heckman v. Adams*, 50 O. S. 305.

Where the superintendent of an insane asylum, acting in good faith, with the assent of the trustees of the institution, and solely with reference to the welfare of the patient, permits her to be removed to and remain temporarily at the residence of a near relative, the husband of the patient can not, by mandamus, compel her restoration to the asylum; and the fact that such residence is beyond the limits of the state will make no difference: *Rutter v. State*, 38 O. S. 496.

The superintendent, acting in good faith, with the assent of the trustees (Department of Welfare) and solely with reference to the welfare of a patient, may permit such a patient to be removed to and remain temporarily at the residence of a near relative, although beyond the limits of the state: *Rutter v. State*, 38 O. S. 496.

The fact that a person who has been committed to a state hospital for the insane has been discharged therefrom, does not operate as a vacation of an order of the probate court which appointed a guardian for such person. The appointment of such guardian by the probate court can not be attacked collaterally by reason of such discharge. Accordingly, if such insane person brings an action in his own name to recover damages for his confinement in such state hospital for the insane, the trial court may substitute such guardian for such plaintiff; and such order is not reversible error. The guardian may then

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dismiss such action: *Reno v. Love* 25 O. C. C. (N. S.) 129, 26 O. C. D. 296, 60 Bull. 497 (Ed.)

A probate judge who is notified of the order for the discharge of a patient from the hospital for the insane, under this section, has no judicial discretion in issuing a warrant for the removal of the patient. The officers of the asylum have full power and ample discretion in determining whether a patient should be discharged or not; and if they discharge a patient and notice is given, as provided by this section, the duty of the probate judge to issue the warrant is ministerial; and if he refuses to issue the warrant he may be compelled by mandamus so to do: *State ex rel., v. Burgoyne*, 7 O. S. 153.

No. 2952. March 28, 1922. To the Department of Public Welfare:

A patient remaining away from the institution exceeding the 90 day period, shall be considered under the jurisdiction of the institution and may be returned without legal proceedings.

The jurisdiction of a state hospital for the insane, over a patient lawfully committed, continues until the patient is legally discharged, and probate court proceedings of the nature of an original commitment are unnecessary and unwarranted in the instance of the return and admittance to the institution of a patient who has exceeded the period of the ninety day visitation permitted under section 1968 G. C.

No. 412. February, 1912. To Secretary, Board of State Charities:

An applicant for admission to any state institution under the voluntary commitment act, Sections 1972-1974 G. C., is not amenable to the "pay patient" provisions, but as the power to receive such applicant is discretionary with the superintendent of the institution, the applicant might be required to pay a reasonable compensation for his maintenance while in the institution.

The question of the sanity or insanity of the person who is confined as insane can not be determined upon the application for the writ of habeas corpus; but such writ must issue and the question of sanity or insanity must be determined on the issue made by the return thereto: *In re Gunning*, 14 O. C. C. 507, 7 O. C. D. 443.

No. 2952. March 28, 1922. To Department of Public Welfare:

The expense incident to the return of escaped patients of a state hospital for the insane, when not covered by the provisions of section 1978 G. C. may be paid from the funds of the institution appropriated or available for such a purpose.

There is no authority of law for the discontinuance of the names of escaped patients from the rolls of the institution, and the same should be continued thereon indefinitely.

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1984— Lima State Hospital**2003.**

See Opinion August 27, 1923, under Section 13608.

No. 1677. January 8, 1919. To the Prosecuting Attorney, Cincinnati:

Where a person is found to be insane after indictment, and before sentenced, the probate judge, when receiving a certificate to this effect, must commit such person to the Lima State Hospital, where he must remain until he is restored to reason.

The implication of G. C. Section 13610, that a bond may be given if the accused is found not to be sane, yields to the express provision of G. C. Section 2003, that he shall be committed to the Lima State Hospital: *State v. Hollenbacher*, 101 O. S. 478.

No. 954. October 20, 1915. To Probate Judge, Cincinnati, Ohio:

A person acquitted of a criminal charge on the ground of insanity should be sent to Lima State Hospital. If acquittal on the ground of insanity be made in a United States court, that fact would not deprive a probate court of jurisdiction.

No. 1036. November 19, 1915. To Superintendent, Lima State Hospital:

Commitment to the Lima State Hospital of persons accused of crime found by the grand jury to be insane before indictment and reported to the common pleas court may be made under provisions of section 13577 G. C., without certifying the matter to the probate court as in other cases.

The order of commitment of one who is found to be insane when under indictment, is a ministerial and mandatory order explicitly written into the statute. The accused can in no wise be prejudiced by an order committing him, made by the court of common pleas, which would be equally mandatory upon the probate court were the latter given the custodianship of the prisoner for the mere purpose of commitment: *State, ex rel., v. Clark*, 102 O. S. 404.

If the attorney for the accused makes no objection to a trial of the insanity of the accused in the common pleas court on motion of the prosecuting attorney, the act of such court in sentencing the prisoner to the Lima State Hospital is not reversible error: *State, ex rel., v. Clark*, 102 O. S. 404.

No. 556. June 30, 1915. To Governor:

The Governor has no power to direct that the Board of Administration transfer patients from other state hospitals to Lima State Hospital. If insane convicts confined in the Lima State Hospital, whose terms of sentence have not expired, have been restored to reason, they shall be transferred forthwith to the penitentiary or reformatory from which they came. Those

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persons, not convicts, so confined, can not be returned to state hospitals, but may be discharged under section 1998 G. C.

No. 674. August 2, 1915. To Probate Judge, Columbus, Ohio:

No examination by physicians is required in case of application for transfer of patients in insane hospital to the Lima State Hospital.

No. 1405. March 22, 1916. To Ohio Board of Administration:

Board of administration authorized to transfer to Lima without intervention of probate court.

2004— Longview Hospital**2034-7.**

(See opinions cited under Section 1867 G. C.)

A pauper can not be discharged from Longview and the duty of his support cast upon the county, without the certificate required by statute: *State v. Ritt*, 6 Dec. Rep. 940, 8 Am. L. Rec. 750.

April 17, 1923. To the Department of Welfare:

Directors of Longview Hospital authorized to select Superintendent, and other employees, and fix salaries—but state must provide funds to pay such salaries.

2035— Ohio Hospital for Epileptics**2051.**

See Opinion No. 1677 cited under Sections 1984-2003 G. C.

No. 298. May 20, 1913. To Probate Judge, Columbus, Ohio: Ohio Hospital for Epileptics. Power of probate court to commit and duty of hospital officials to receive.

No. 506. May, 1912. To Bureau of Inspection and Supervision of Public Offices:

Certificate of only one medical witness required to admit an epileptic to Ohio Hospital for Epileptics.

Opinion No. 742. October 29, 1923. To the Prosecuting Attorney Putnam County:

A person appointed by the probate judge to convey a patient to the Ohio Hospital for Epileptics at Gallipolis is entitled to receive a fee of two dollars for such service and likewise traveling and "incidental expenses." "Incidental expenses" include reasonable expenses for the meals of such person.

See Opinion No. 1860, Aug. 19, 1916, cited under Sec. 3496 G. C.

See Opinion No. 742 cited under Section 1959 G. C.

2054— Ohio State Sanatorium**2072.**

Opinion 1673. Jan. 6, 1919. To the Prosecuting Attorney of Logan County:

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A person has a legal residence in that county in which he has continuously resided for a period of twelve consecutive months and during said period has not received any relief under the provisions of law for the relief of the poor.

If the proper authorities of a county in which a person has a legal residence refuses to accept such person from a county to which he has later removed, and said latter county furnishes necessary relief to the person, then said county has a right of action against the county in which the person has a legal residence for expenses so incurred in furnishing relief.

Opinion February 21, 1923. To the Department of Public Welfare:

Support of patient in Sanatorium who has not established a residence in any county in State. No county is liable for payment to Sanatorium.

No. 345. June 13, 1913. To Superintendent, Ohio State Sanatorium:

None but citizens of Ohio may be admitted to Ohio State Sanatorium.

No. 1094. August 10, 1914. To Prosecuting Attorney, Mt. Vernon:

The County Commissioners are without authority in law to contract for the care and treatment of tuberculosis patients at the Ohio State Sanatorium.

No. 970. October 27, 1915. To Board of State Charities:

Applicants for admission to or inmates of the Ohio State Sanatorium may pay the amount fixed by law under Section 2068 G. C. to the superintendent of the Sanatorium. Board of State Charities is only required to make investigation of such cases as may be reported by the Superintendent. Sections 1815-13-14-15 are to be read in connection with Section 1815-9 G. C.

2083- Boys' Industrial School
2100.

Trespassing on grounds or signaling inmates; penalty: see note to G. C. Section 12839.

Opinion No. 706. October 16, 1917. To the Probate Judge, Kenton, Ohio:

A boy came into the custody of the juvenile court prior to his becoming eighteen years of age and was placed on probation by the court upon certain conditions. After arriving at the age of eighteen he violated his probation. HELD, if the violation of probation in this case consisted of a violation of some rule of conduct imposed by the juvenile court upon this boy prior to his becoming eighteen years of age, the juvenile court can now deal with such boy in exactly the same manner as if he were still under eighteen years of age, except that the court is without authority to commit such boy to the boys' industrial

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school. If, however, the violation of probation consisted of the commission of some offense against the state laws or local ordinances since such boy became eighteen years of age, the juvenile court has no jurisdiction in the punishment of such offense and the boy should be proceeded against in the same manner and in the same court as though he were an adult.

This section is not repugnant either to Art. I, Section 5, or Art. I, Section 10, of the constitution of Ohio. The industrial school is not a prison, and a proceeding for commitment thereto is not a criminal prosecution, nor a proceeding according to the course of common law, and, accordingly, a trial by a jury is not necessary: *Prescott v. State*, 19 O. S. 184.

If a youth is convicted of an offense under this section, and for that reason is committed to the industrial school, this is a criminal proceeding, within the meaning of the statute concerning fees. There must be a regular criminal prosecution and the probate judge can not receive fees, since these services are covered by the allowance of the county commissioners to the probate judge for services in criminal business. Commitments for truancy and the like, where no conviction of an offense is required, a trial by jury is not necessary, and are proceedings for which the probate judge must be paid fees: *Milard v. Commissioners*, 5 O. C. C. (N. S.) 145, 16 O. C. D. 445.

No. 238. April 6, 1912. To Superintendent, Boys' Industrial School:

Commitment of boys under ten. Section 2084 G. C., providing a minimum age of ten years for boys who may be committed to the boys' industrial school, applies only to offenses against the state and does not interfere with the powers of a judge under the juvenile act to commit delinquent, neglected or dependant minors under the age of seventeen years to any state or county institution.

No. 319. May 3, 1915. To Probate Judge, Bryan, Ohio.

Juvenile Court Judge is without authority to commit youth over eighteen years of age to Boys' Industrial School.

No. 1377. January 6, 1915. To Superintendent, Boys' Industrial School:

Jurisdiction of Juvenile Court over boy ceases when he is committed by the Court to the Boys' Industrial School.

No. 1238. November 13, 1914. To Judge of Juvenile Court, Cleveland, Ohio:

All persons committed to any institution under control of the Ohio Board of Administration shall be considered as committed to the control, etc. of such Board. Commitment by Juvenile Court of delinquent boys to Boys' Industrial School shall be made as before the passage of the juvenile research act, sections 1841-1 et seq.

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No. 393. May 19, 1915. To Ohio Board of Administration: Child labor law. Boys paroled from Boys' Industrial School not permitted to work at places of amusement after 6:00 P. M.

Opinion July 26, 1921. To Department of Public Welfare: Power to parole or discharge vested jointly in Superintendent and Department of Welfare.

Opinion October 25, 1922, to the Superintendent of the Ohio State Reformatory:

Section 2096 G. C., in its present form, authorizes the transfer to the Ohio State Reformatory of any inmate in the Boys' Industrial School who is more than sixteen years of age, regardless of what particular specification of delinquency (See Sec. 1644 G. C.) the boy was charged with in the committing court. Obviously, the section was intended to be availed of only where a boy, by reason of incorrigibility or obnoxious conduct, can not be properly handled by the methods of the Boys' Industrial School.

The statute which provides for the transfer of juvenile offenders from the penitentiary to the industrial school applies to offenders sentenced before the passage of such act as well as after: *State, ex rel., v. Peters*, 43 O. S. 629.

**2101-
2119. Girls' Industrial School**

Trespassing on grounds or signaling inmates; penalty: see note to G. C. Section 12839.

The girls' industrial home is not a penal institution but a school. The fact that the inmates are subjected to restrictions does not make the institution a prison. The provisions of this chapter (G. C. §§2101 to 2119), are valid and constitutional exercise of legislative power: *State, ex rel., v. Stiles*, 12 O. D. (N. P.) 338.

If a woman was appointed chief matron of a girls' industrial school under this section on the first of August, 1913, it will be presumed that such statute was valid and constitutional in the absence of judicial determination to the contrary; and if such statute were unconstitutional in authorizing the appointment to public office of a woman who is not an elector, such statute, and such appointment thereon, were rendered valid by the adoption of Art. XV, §4 of the constitution of Ohio, as amended November 4, 1913, which authorized the appointment of a woman to such an office: *State, ex rel., v. Campbell*, 94 O. S. 403.

The chief matron of the girls' industrial school is a public officer; and under the provisions of Art. II, §20 of the constitution of Ohio, the salary of such officer can not be changed during her existing term unless the office be abolished: *State, ex rel., v. Campbell*, 94 O. S. 403.

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The term "officers" as used in Art. II, Section 20 of the Constitution, includes both appointive and elective officers.

Opinion No. 1037. February 28, 1918. To the Prosecuting Attorney, Summit Co:

The sheriff is not the proper officer to convey girls to the Girls' Industrial School, and if he performs such service he may not collect any fee therefor. The proper officer to render such service is the probation officer, and there must be at least one probation officer in every county. The expenses of such transportation are payable out of the county treasury on the certificate of the juvenile judge, as provided in section 1682.

No. 416. June 20, 1919. To Prosecuting Attorney, Medina, Ohio.

Because of age limitation imposed by section 1653-1 G. C., a delinquent female minor child under the age of ten years can not legally be committed to the Girls' Industrial School by the probate court, in the exercise of its juvenile jurisdiction.

Disposition of such a child should be made in one of the ways provided by sections 1652 and 1352-5 G. C.

Under this section, a girl under the age of eighteen, sentenced to the penitentiary before the passage of this statute, may be transferred to the girls' industrial school: State ex rel., v. Peters, 43 O. S. 629.

No. 633. July, 1912. To Chief Matron, Girls' Industrial School:

Ohio Board of Administration has legal control and custody of any inmate of the Girls' Industrial School from the time of commitment until legally discharged, or until such inmate attains the age of twenty-one, regardless of whether or not such inmate is married at the time of commitment or becomes married during the term of the board's control.

Opinion No. 154. March 31, 1919. To the Prosecuting Attorney, Batavia, Ohio:

When a minor child under the age of eighteen years is arrested and taken before a justice of the peace and the latter transfers the case to the judge of the juvenile court as provided by section 1659 G. C. costs are taxable in favor of the justice of peace and the constable and should be paid as provided in section 1682 G. C.

When a minor child under the age of eighteen years is a resident of Warren County but while in Clermont violates a law of the State of Ohio such minor may be proceeded against as a juvenile delinquent person in the juvenile court of Warren County.

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2129- Ohio State Reformatory

2147.

The Ohio State Reformatory is a prison for persons who are convicted of felonies and committed thereto by a sentence of the court following such conviction; while for delinquent children who have been committed thereto after having committed an act which constitutes a felony, it is only a school or place of reformation. *Leonard v. Licker*, 3 Ohio App. 377, 23 O. C. C. (N. S.) 442 (citing *Prescott v. State*, 19 O. S. 184.)

No. 737. August 18, 1915. To Prosecuting Attorney, Jackson, Ohio:

Under the provisions of this section, the superintendent of the Ohio State Reformatory is only authorized to receive male criminals of certain age "if they are not known to have been previously sentenced to a state prison." Therefore, if a court sentences a person to the reformatory on three separate indictments, the superintendent of such reformatory is only authorized to receive him on the first sentence and can only certify cost bill of case in which person is first sentenced.

No. 1258. February 10, 1916. To Prosecuting Attorney, Akron, Ohio:

If, upon the hearing of a delinquent male child, it appears that his delinquency is due to his having committed a felony, and he is *at the time of the hearing* sixteen years of age or over, he may be committed to the Ohio State Reformatory.

See opinion cited under Sec. 1841-9-1841-12.

See opinion cited under Sec. 2096 (Boys' Ind. School.)

January 3, 1922. To the Department of Public Welfare:

Driving of a State's well at the Reformatory affected water supply of neighboring land owners.

Such land owners have valid reason for making claim for damages, if they choose. Would then be a matter for the attention of the Sundry Claims Board.

2148-1- Ohio Reformatory for Women

2148-11.

No. 49. February 23, 1917. To the Prosecuting Attorney of Muskingum County:

A woman convicted of a misdemeanor must be sentenced to the Ohio Reformatory for Women when such sentence will result in imprisonment for more than thirty days and in such cases where a prisoner is remanded for non-payment of fines and costs, she must be remanded to the Ohio Reformatory for Women instead of to a jail, workhouse or other such institution, when the imprisonment so caused will be in excess of thirty days.

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2148-1- Women convicted of violations of city or local ordinances
2148-11. can not be sentenced to the Ohio Reformatory for Women at Marysville.

No. 363. June 11, 1917. To the Probate Judge of Summit County:

When a juvenile court finds a girl over sixteen years to be delinquent, such court is not required to send her to the Ohio Reformatory for Women, but may, if it sees fit, send her to such institution or to the Girls' Industrial School, or other institution for juvenile delinquency.

No. 427. July 5, 1917. To the Auditor of State:

The state is liable for the cost of conviction and the costs of transportation in cases where women are sentenced and committed to the Ohio Reformatory for Women for the commission of felony, transportation fees to be the same as are allowed in penitentiary cases.

The state is not liable for costs of conviction and costs of transportation when women are sentenced to the Ohio Reformatory for Women for misdemeanors or delinquency.

No. 841. December 8, 1917. To the Bureau of Inspection and Supervision of Public Offices:

There is no authority for the payment of any fees to marshals and chiefs of police for transporting prisoners to the Ohio Reformatory for Women in cases where they have been sentenced to such institution by the mayor, police or municipal judge. When prisoners have been sentenced to the Reformatory for Women by the justice of the peace, the constable may receive a fee of forty cents for serving the mittimus and the mileage as provided for in section 3347 G. C. He may also be reimbursed for the expense incurred in transporting and sustaining a prisoner such sum as may be allowed by the justice of the peace, from the county treasury.

No. 22. February 3, 1917. To the Prosecuting Attorney, Pomeroy, Ohio:

This opinion holds that a justice of the peace in all misdemeanor cases in which he may rightfully exercise final jurisdiction, has authority to sentence women so convicted to the Ohio Reformatory for Women.

Op. Atty. Gen. (1919) p. 40.

The fact that the Ohio Reformatory for Women does not have the capacity at this time to care for additional prisoners, will not justify the courts in disregarding the provisions of sections 2148-5 and 2148-7 G. C., which require that female offenders, except in certain cases therein specifically provided for, be sentenced to that institution.

No. 355. June 7, 1917. To the Bureau of Inspection and Supervision of Public Offices:

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Even though council, under section 3628 G. C., provides in an ordinance that a violation of it "shall be a misdemeanor" this does not make such violation a "misdemeanor" within the meaning of that word as used in the state penal code.

A woman convicted of the violation of such an ordinance can not be sentenced to the Ohio Reformatory for Women. (See Opinion No. 49, Feb. 23, 1917.)

No. 1697. December 10, 1920. To the Ohio Board of Clemency:

Commitments to the Ohio Reformatory for Women under the provisions of Section 13031-17a G. C. (108 O. L., Part I, p. 731) are to be regarded as felony commitments, and are "for an indeterminate period of time not less than one nor more than three years in duration." With said section, the provisions of Section 2148-9 G. C. are entirely consistent.

Commitments to the Ohio Reformatory for Women under the provisions of Section 13031-17b G. C. (108 O. L., Part I, p. 732) are to be regarded as misdemeanor commitments, and are, pursuant to the provisions of said section, "for not more than one year." Said section is in the nature of an exception to the general rule for misdemeanor commitments stated by section 2148-9 G. C.

No. 77. March 3, 1917. (Also June 19, 1923.) To the Ohio Board of Administration:

When a woman is committed to the Ohio Reformatory for Women for non-payment of fine and costs, the sentencing court or magistrate must specify the amount of the fine and costs and the rate of credit per day to be given the prisoner, so that the superintendent of the reformatory can compute the number of days to be served from the commitment.

When the sentencing court or magistrate certifies to the superintendent of the Ohio Reformatory for Women that a woman committed to that institution for non-payment of fine and costs has fully paid the same, it is the duty of the superintendent of such reformatory to release such prisoner.

2155— Ohio Penitentiary
2297.

April 25, 1923. To the Department of Public Welfare:

There appears to be no authority conferred upon the officials having the control of state penal institutions to enter into any contract or arrangement with the Federal Government for receiving and keeping Federal prisoners, and the fact that at one time such authority was expressly conferred by Section 2205 of the General Code would indicate that no such authority can exist without some legislative enactment in that regard.

In construing a former statute (R. S. § 7427, repealed, 81 v. 77), which provided that if a convict was sentenced by the

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court to solitary confinement, the board might modify such sentence if necessary, to prevent serious injury to his health, the court said that such statute applied to convicts who were sentenced before such statute was enacted, as well as to those who were sentenced subsequent thereto: *State, ex rel., v. Peters*, 43 O. S. 629.

See Opinion cited under Section 2202 G. C.

The term, "period of imprisonment" as used in this section, means the term of sentence, less the time which, under the rules of the penitentiary, may be deducted for good conduct: *In re Bailus*, 8 O. C. C. (N. S.) 454, 19 O. C. D. 632.

See citation under Section 2168 G. C.

Where it is discovered that one of the prisoners in a workhouse is an escaped convict from the penitentiary, it is the better practice to await the expiration of his workhouse sentence and then rearrest and recommit him to the penitentiary: *Harrington v. Bader*, 12 O. C. C. (N. S.) 257, 22 O. C. D. 493, 6 O. L. R. 170.

2160—Indeterminate Sentence Law**2166.**

Whether Art. III, § 11, of the Ohio constitution renders this section unconstitutional was considered but not decided in a case in which error was not prosecuted to the sentence imposing imprisonment for such indeterminate term; but habeas corpus proceedings were brought under G. C. §12165 after the expiration of the minimum term of imprisonment for which the accused could have been sentenced; since even if such sentence was erroneous, the error of the court related to the sentence and the punishment only, and was not jurisdictional: *in re Allen*, 91 O. S. 315.

Where a person, who is convicted of a crime under a statute prescribing punishment by imprisonment in the penitentiary for a definite number of years, is given an indeterminate sentence, the question of the validity of the statute authorizing such indeterminate sentence can not be raised in a proceeding in habeas corpus: *in re Allen*, 91 O. S. 315.

Whether this section is in violation of Art. III, §11, of the constitution of Ohio, or of Art. IV, § 1, of the constitution of Ohio, or whether it has been repealed, will not be determined where the accused does not prosecute error to the indefinite sentence; but where he proceeds in habeas corpus under G. C. §12165, after the expiration of the minimum term for which he could have been sentenced: *in re Winslow*, 91 O. S. 328.

The indeterminate-sentence statute (G. C. §2166; 103 v. 29) does not apply to prior offenses: *Francis v State*, 4 Ohio App. 465, 25 O. C. C. (N. S.) 281.

The provisions of G. C. §12447 to the effect that one who steals property of the value of \$35.00 or more shall be imprison-

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2160- ed in the penitentiary for not less than one year nor more than
2166- seven years, does not authorize the court to impose an indeterminate sentence. Unless some other statute authorizes an indeterminate sentence, it is the duty of the court to impose a definite sentence; *Francis v. State*, 4 Ohio App. 465, 25 O. C. C. (N. S.) 281.

No. 1728. December 22, 1920. To the Prosecuting Attorney, Warren, Ohio:

Where a person has been convicted on two or more separate indictments charging different offenses, and has been sentenced on each to an indeterminate period of imprisonment in the Ohio State Reformatory, the costs in each case should be paid by the state in the manner provided by section 13722 G. C. et seq.

See Opinion cited under Section 1841-2 G. C.—April 10, 1923.

No. 1303. December 15, 1914. To Warden, Ohio Penitentiary:

When Governor commutes the term of a prisoner serving an indeterminate sentence in the Penitentiary, his action is a reduction of the maximum term provided by law and does not change the nature of the prisoner's sentence so as to entitle him under Section 2163 G. C., to a further diminution of sentence.

No. 29. November 25, 1913. To Warden, Ohio Penitentiary:

Sentence imposed while prisoner is inmate of Penitentiary commences at expiration of present term, as provided by section 13601 G. C.

No. 136. March 13, 1913. To Board of Administration:

Board has power, under section 2160 G. C. to provide for conditional or absolute release of prisoner under general sentence, provided he has served the minimum term provided by law for the crime of which he was convicted.

No. 347. May 11, 1915. To Ohio Board of Administration:

Sentence for indeterminate period without authority of law is erroneous (case of *Estel Judd*, No. 43133). There is no authority in law under indeterminate sentence act to sentence for crime committed prior to the passage of the act. Erroneous sentence to the Penitentiary should be executed through proceedings in error; habeas corpus will not lie. Imprisonment in Penitentiary under erroneous sentence does not render prisoner ineligible for suspended sentence imposed subsequent thereto. Jurisdiction of court to sentence prisoner in abandonment cases continues until minor reaches age of sixteen years.

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Section 2166 G. C. can not in any way apply to prisoners

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No. 408. July 28, 1913. To Ohio Board of Administration: confined in the Penitentiary prior to the law becoming effective.

No. 560. June 30, 1915. To Prosecuting Attorney, Georgetown, Ohio:

Upon confession of guilt in open court and fixing of crime as murder in second degree, the court should sentence generally to the Ohio Penitentiary and not for definite term.

No. 515. September 26, 1913. To Warden, Ohio Penitentiary:

Indeterminate sentence law relates to all sentences imposed by the court after said law went into effect. Any person sentenced on or after the 29th day of May, 1913, except those found guilty of treason or murder in the first degree shall receive an indefinite sentence.

No. 968. June 4, 1914. To Warden, Ohio Penitentiary:

The indeterminate sentence law is ex-post facto and void as to prisoners sentenced after it became effective for crimes committed prior to that time. Where the courts impose definite sentences after that date, such sentences should stand regardless of the indeterminate sentence law, and such prisoners should be released upon the expiration of such definite term. The question of the legal effect of indeterminate sentences imposed upon prisoners after May 29, 1913, for crimes committed prior to that date should be determined by habeas corpus proceedings in view of the question of the power of the court to impose indeterminate sentences under the law.

No. 1741. June 29, 1915. To Governor:

No authority for issuance of conditional certificate of restoration; hence a convict who has served the entire term fixed by a commutation of sentence, conditional or otherwise, is entitled to receive a certificate of restoration upon his compliance with the provisions of section 2161, G. C.

No. 623. November 24, 1913. To Warden, Ohio Penitentiary:

Clerk of courts, under indeterminate sentence law, is required to furnish the documents and information provided for in section 13697 G. C., to Warden of Penitentiary, upon demand, in the case of prisoners sentenced under the indeterminate sentence law.

No. 735. December 2, 1912. To Warden, Ohio Penitentiary:

Prisoner sentenced for two crimes at the same time serves them concurrently when not otherwise provided.

No. 746. December 13, 1913. To Warden, Ohio Penitentiary:

Under the indeterminate sentence law, it was the intention of the legislature to treat a prisoner serving concurrent

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sentences as serving one term. The only way this can be done is to add the minimum and maximum terms for the different felonies of which he was convicted, with such combined minimums and maximums as the limits within which the board may act.

(Op. Attorney General, April 26, 1923.)

The question of correcting an erroneous sentence to the Penitentiary is one for the courts, on application by the prisoner.

2167— Pardon and Parole (See Sections 86-93)

2175. Dec. 27, 1922. To the Department of Public Welfare:

When is a prisoner eligible for parole who has been sentenced to the Ohio Penitentiary for a crime for which the law provides only a maximum, and not a minimum penalty—Arson and Embezzlement?

Arson.

Board may release prisoner at any time after he begins his sentence, since the statute provides the maximum, but not the minimum term of imprisonment. (Sentence—*Not more than 30 years.*)

If sentence is "for life", term is minimum as well as maximum, and prisoner in that case could not become eligible for parole.

No. 50. February 23, 1917. To the Warden of the Penitentiary:

Parole of life prisoner whose term has been commuted to twenty years by Board of Managers void. Violation of such parole does not forfeit "Good Time" nor parole deposit.

No. 163. April 4, 1917. To the Warden of the Penitentiary:

Habitual Criminal Act—Repeal of same deprived Board of Managers of the Ohio Penitentiary of authority to parole prisoner sentenced under said act—Violation of such parole does not forfeit good time.

February 4, 1914. To Ohio Board of Administration:

A prisoner in the Ohio State Reformatory or on parole from said reformatory, can not be taken from the custody of the reformatory officials to answer to a charge of desertion from the U. S. army.

A liberal discretion is vested in the board in administering this system of merit and demerit accounts of convicts: State ex rel., v. Peters, 43 O. S. 629.

As to proof of innocence required in recommending for parole, a person convicted of murder in first degree, see note to G. C. Sec. 12399.

No. 745. January 15, 1914. To Ohio Board of Administration:

Board can not parole a prisoner serving an indeterminate sentence when such prisoner has served a previous term in a

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2167- penal institution. Board may, however, grant to any such
2175. prisoner an absolute release at any time between the expiration of the minimum and maximum terms provided by law for the crime of which such prisoner was convicted.

No. 933. May 19, 1914. To Prosecuting Attorney, Troy, Ohio:

Power of Board of Administration to parole a prisoner convicted for arson from the Ohio State Reformatory.

No. 1035. July 7, 1914. To Ohio Board of Administration:
"Good time" may be restored to prisoner. Right of Board to rescind mistake made by former board of managers.

No. 1097. August 10, 1914. To Warden, Ohio Penitentiary:

A prisoner who has been previously convicted of a felony and serving a term in a penal institution, can be paroled provided such prisoner has been granted a full pardon for the crime of which he was previously convicted and for which he was previously sentenced.

No. 1191. October 8, 1914. To Warden, Ohio Penitentiary:

The Ohio Board of Administration is without power to parole a prisoner who has previously been convicted in another state or sentenced for an offense which is a felony in Ohio.

No. 512. August 11, 1913. To Warden, Ohio Penitentiary.

When a prisoner is paroled from the Penitentiary and is afterward sentenced on another charge and his parole revoked, the last sentence begins at the expiration of the first sentence.

No. 567. July 24, 1912. To Warden, Ohio Penitentiary:

Penalty for violation of parole or conditional release; maximum term without deduction for good time.

No. 574. August 8, 1912. To Ohio Board of Administration:

A person who violates the conditions of his parole or conditional release must be required to serve the entire maximum term of his imprisonment, deducting therefrom only the time from the date of his first commitment to the date of his declared delinquency.

No. 625. December 1, 1913. To Warden, Ohio Penitentiary:

Under the indeterminate sentence law, Section 2166 G. C., the Board is without authority to parole prisoners at the end of their first term when they are serving more than one term consecutively.

No. 45. January 30, 1913. To Ohio Board of Administration:

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- 2167-** Commutation of sentence by governor can not authorize
2175. Board of Administration to parole a prisoner otherwise not entitled to parole.

No. 122. February 15, 1912. To Ohio Board of Administration:

Prisoner sentenced for life imprisonment and sentence commuted to twenty years not eligible to parole; must have served twenty-five full years.

No. 165. March 25, 1915. To Ohio Board of Administration:

Prisoner in Penitentiary is under control and subject to the orders of the Ohio Board of Administration acting through the Warden and can not be released except under laws relating to paroles or as provided in section 13720, regardless of certificate of suspension of sentence from trial judge.

No. 174. February 26, 1916. To Ohio Board of Administration:

Parole should not be granted to any prisoner serving a sentence for a crime for which there is no minimum penalty prescribed. The fact that such prisoner's sentence has been commuted does not change the nature of the crime, and, therefore, in no way affects his eligibility to parole.

No. 408. July 28, 1913. To Ohio Board of Administration

Section 2169 G. C., establishing rules and regulations as to parole of prisoners, applies to all prisoners in the Penitentiary regardless of time when said prisoners were received.

No. 486. July 1, 1916. To Ohio Board of Administration:

Parole of prisoners on probation. Control of Board and control of court. Procedure for release or parole. Suspension of sentence to penitentiary or reformatory.

Op. Atty. Gen. (1921) p. 550.

When a prisoner who has been convicted on a felony charge is returned to the Ohio penitentiary or the Ohio state reformatory for women, for violating parole, the sheriff (or other officer named in section 13606 G. C.) delivering such prisoner to the warden of the penitentiary or the superintendent of the reformatory, is entitled to receive the mileage and compensation for "necessary expenses" provided for by said section, and said mileage and compensation for necessary expenses are payable out of the state treasury from the fund known as the "prosecution and transportation of convicts" fund.

In a case where a prisoner has been extradited from another state on a felony charge, and upon his return to Ohio it is discovered that he is a parole violator, and the indictment upon which he was extradited is nollied and he is returned to the penal institution from whence paroled, to complete his sentence, such costs and expenses as are made upon extradition

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are payable by the county under section 2491 G. C. Such costs and expenses as are made after the prisoner is treated as a parole violator may be paid by the state, under the authority of section 13606 G. C.

Where a convicted prisoner who has been placed on parole, violates the terms and conditions thereof and goes into another state, he is a "fugitive from justice" within the provisions of the United States constitution and laws, and as such is subject to extradition if his parole is revoked.

2202. (See citation under Section 2159 G. C.)

No. 174. March 27, 1915. To Ohio Board of Administration:

Board of Administration without power to modify sentence of prisoner insofar as solitary confinement provision is concerned, except in case of illness. Power to modify rests with Governor (case of Aleck Kish).

2210- Probation (See Sections 13706-13715 G. C.)**2217.** No. 230. April 12, 1915. To Auditor of State:

An appropriation for "Prosecution and transportation of convicts" under the heading, "Personal Service", is available to pay costs of apprehending parole violators. Salary and expenses of parole officers paid under authority of section 2212-3 and 2215 G. C. Costs of conviction payable under section 13727 G. C.

No. 226. March 27, 1912. To Ohio Board of Administration:

Parole officers of the Boys' Industrial School may be allowed their expenses incurred in pursuing and bringing back from other states to the institution, boys who have violated their parole.

No. 358. May 9, 1912. To Prosecuting Attorney, Cleveland, Ohio:

When a judge suspends a sentence of a person convicted and sentenced to a term in the penitentiary or reformatory and retains such person under the jurisdiction of the court instead of placing him under the penitentiary or reformatory, such judge is acting contrary to the provisions of the so-called probation laws, Sections 13706-13715, G. C. The cost bills, therefore, in such cases can not be paid by the state.

No. 648. November 17, 1913. To Warden, Ohio Penitentiary:

Court without authority to suspend a part of a sentence upon a person convicted of a felony.

No. 684. December 3, 1913. To Warden, Ohio Penitentiary:

The word "convicted" in section 13708 is a substitute for the words "has pleaded or been found guilty" as used in section

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13706, and the court has no authority to suspend the sentence of defendant who has pleaded guilty.

2228- Labor of Prisoners

2230. See opinions and citations under 1866 G. C.

New Penitentiary

Opinion November 29, 1921. To the Department of Public Welfare:

Plans bearing approval of ex-Governor Cox cannot be changed.

2288-2. Contracts

See opinions cited under Sections 2314-2332.

No. 550. August 21, 1917. To the State Highway Commissioner:

The certificate of the auditor of state, provided for in section 2288-1 G. C. (107 O. L. 457), must be made before the entering into of any contract, agreement or obligation involving the expenditure of money or the passing of any resolution or order for the expenditure of money by any officer, board or commission of the state, whether the contract be important or not, and whether the amount of money expended is large or small.

2312- Emergency Board

Op. Atty. Gen. No. 23, February 5, 1917, Vol. I, p. 32.

2313-3. The duties imposed upon the emergency board by section 2313-3 G. C. have no reference to whether or not the legislature is in session, and the allowance under said section must be obtained at all times, whether necessary during a recess or session of the legislature.

Op. Atty. Gen. No. 656. September 25, 1919, Vol. II, p. 1198. SECTION 2313-3. G. C., which provides that no state officer or employee shall attend at state expense any conference or convention outside the state unless authorized by the Emergency Board, applies to the members and executive force of the Board of State Charities.

The general appropriation made to the Board of State Charities for traveling expense can only be used to pay such expenses within the state. The expense of attending conferences and conventions outside the state are payable from the emergency fund referred to in section 2313-3 G. C.

2314- Construction

2332. See opinions cited under Section 2288-2.

No. 518. August 10, 1917. To the Auditor of State:

The amendments to the state building code, sections 2314 et seq. G. C., found in 107 O. L. 453, in connection with the statutes under which the Ohio board of administration is authorized to conduct industries at the various state institutions and to direct and employ the labor of convicts and inmates of

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- 2314-** such institutions, require that when a state building is to be erected under the supervision of the board of administration, at an aggregate cost in excess of \$3,000.00, including the cost of such labor and materials as are to be furnished by the state, plans, specifications, estimates, etc., covering the entire improvement, shall be prepared; but the contract to be let by competitive bidding under the building code, if any, is to include only such portions of the work as are not done by the board of administration itself.
- 2332.**

It is not necessary under section 2314 G. C. as amended (107 O. L. 453) to employ an architect, if the "owner," as referred to in said section, can avail himself or itself of the services of a person competent to prepare the papers therein specified, without such independent employment.

Where all the labor and a part of the materials of a state improvement are to be furnished by the state, and the aggregate cost of the entire improvement exceeds \$3,000.00, the balance must be let by competitive bidding, as provided in the "state building code," and such materials may not be furnished through the activities of a purchasing department conducted under the authority of the state department supervising the improvement.

Op. Atty. Gen. No. 2317. August 12, 1921.

Prior to the making by a state officer, board or commission of any contract involving the expenditure of money, the director of finance must, under the provisions of section 2288-2 G. C. (109 O. L. 130) first certify that there is a balance in the appropriation pursuant to which such obligation is required to be paid, not otherwise obligated to pay precedent obligations; but there is no requirement that he certify as to any balance in the fund in the state treasury upon which the appropriation is to operate. Said section merely requires that all contracts, agreements or obligations involving the expenditure of money, be brought within the amount set apart by the legislature for a particular purpose, and such setting apart may antedate the appearance of funds in the state treasury.

See Opinions of Attorney General, cited under Sec. 154-40.

No. 2317. August 11, 1921. To Department of Industrial Relations:

Under the provisions of Section 154-40 G. C., found in H. B. 249, 109 O. L. 118, the authority to make contracts for the construction of buildings under the control of the state government, or any department, office or institution thereof, is given to the department of highways & public works. This section applies to contracts for the construction of the buildings at Ohio State University for which appropriations are made by H. B. 325, 109 O. L. 360.

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Prior to the making by a state officer, board or commission of any contract involving the expenditure of money, the director of finance must, under the provisions of section 2288-2 G. C. (109 O. L., 130) first certify that there is a balance in the appropriation pursuant to which such obligation is required to be paid, not otherwise obligated to pay precedent obligations; but there is no requirement that he certify as to any balance in the fund in the state treasury upon which the appropriation is to operate. Said section merely requires that all contracts, agreements or obligations involving the expenditure of money, be brought within the amount set apart by the legislature for a particular purpose, and such setting apart may antedate the appearance of funds in the state treasury.

By reason of Section 3 of H. B. 325 (109 O. L. 360) the appropriations of the proceeds of the educational building fund tax levy for the year 1921-1922 and for the year 1922-1923 take effect and are available on and after the first day of September, 1921, and for a period of two years thereafter. On said first day of September and during said period, contracts for the construction of necessary buildings at Ohio State University may be entered into, to an amount equivalent to that realizable from 72 per cent (the university's share) of said levy for both the year 1921-1922 and the year 1922-1923.

A contract for an institution for the feeble-minded, under G. C. Sections 1904-1, et seq., can not be made until the auditor of state files the certificate that available funds are on hand as required by section 2288-1: State, ex rel., v. Tracey, 102 O. S. 694.

Purchasing

Opinion No. 2491. October 18, 1921. To the Director of Finance:

In purchasing supplies needed for the proper support and maintenance of the institutions under the control of the Department of Public Welfare, the Department of Finance may establish its own rules; it need comply only with the following requirements:

Award contract to the lowest responsible bidder, preference being given to bidders in localities wherein such institution for which the purchase is made is located, if the price is fair and reasonable and not greater than the usual price.

Force Account

Opinion No. 2353. August 20, 1921. To the Department of Public Welfare:

Department of Welfare has the authority to prepare plans and specifications, open bids and enter into contract for all capital equipment.

Plans and specifications must receive the approval of Highway Department as the successor to the State Building Com-

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- 2314-** mission. Welfare Department may require assistance from.
2332. Highway Department in drawing plans, etc.

Purchase of all supplies, such as electric wire where work is to be done by prison labor or regular employees of the institution, must be made by Department of Finance, Purchasing Department.

No. 857. December 13, 1917. To the Bureau of Inspection and Supervision of Public Offices:

The term "force account" implies that the department officer or board having work to do, instead of entering into a contract for the performance of the work, assumes a direct oversight of the same, employing men with teams, purchasing material and paying for the same without reference to any contract whatever.

The authority to perform work under what is termed force account would not include authority to a department, board or officer to enter into a contract with another, giving him as consideration a certain percentage of the entire cost of the work.

No. 1672. December 3, 1920. To the Prosecuting Attorney, Cincinnati, Ohio:

Though Longview Hospital is an institution supported in part by the State, within the meaning of section 2314 G. C., as amended in 107 O. L. 453, that section, by reason of section 26 G. C. does not apply to the new building proposed to be erected on the hospital grounds pursuant to proceedings commenced prior to the enactment of said amended section.

Sections 2314 to 2331 relate to buildings and improvements which are constructed by the state, and have no necessary references to buildings and improvements constructed by the county commissioners: *Plessner v. Pray*, 6 O. N. P. 444, 8 O. D. (N. P.) 149.

No. 1092. March 22, 1918.

Since the amendment of section 2319 G. C., 107 O. L., 455, a bid must be accompanied by a bond in a sum equal to the sum total of the bid. Under the provisions of section 2323 G. C., 107 O. L., 456, the bid must be within the estimate. If a certain part of the work to be done is eliminated, the estimate must be correspondingly reduced in order to determine whether or not the bid is within the estimate.

Op. Atty. Gen. (1922) p. 210.

Contracts for the purchase and installation of elevators, boilers, engines, pumps and electrical wiring, for the use of state institutions under the supervision of the Department of Public Welfare, should be made by the Department of Public Welfare; and bids for the items just mentioned should be opened by said department.

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2314-**2332.**

The Department of Highways and Public Works succeeds, by reason of section 154-40 G. C., to the powers and duties of the so-called State Building Commission, to wit section 2314 G. C. et seq. It is therefore necessary, in the installation of elevators, boilers, engines, and anything else comprehended by section 2314 G. C., that the plans and specifications receive the approval of the Department of Highways and Public Works, as the successor of the State Building Commission.

If the Department of Public Welfare desires the assistance of the Department of Highways and Public Works, in respect of the drawing of plans, etc., for the above mentioned work, such assistance may be legally rendered where arranged for pursuant to section 154-21, G. C.

Op. Atty. Gen. (1921) p. 722.

Sections 2314 to 2330 of the General Code require structural improvement work for the department of public welfare costing over three thousand dollars for any project to be let by contract, after advertising, etc., unless labor and materials furnished by the state itself are employed.

If the cost of such a project is three thousand dollars or less, the department of public welfare may elect to proceed by non-competitive contract, in which event, however, plans must be prepared and the contract let by and under the supervision of the department of highways and public works.

If in a project costing three thousand dollars or less the Department of Public Welfare desires to purchase the material in the open market, and to employ the labor otherwise than through the interposition of a contractor, the material must be purchased through the department of finance, but the Department of Public Welfare may employ the labor; and the Department of highways and public works must inspect the materials before their incorporation into the work and exercise general supervision over the manner in which the work is done.

No. 16. January 19, 1915. To Board of Administration: Mechanics' lien not to be enforced against the State.

No. 275. May 21, 1913. To Auditor of State:

Alterations in building of state buildings; procedure; power of governor, secretary of state and auditor of state to ratify change made without their previous consent and approval.

No. 545. June 26, 1915. To Auditor of State:

Not until a contract is awarded under an advertisement for bids under sections 2314 et. seq., G. C., is there any liability on the part of the State to pay contract price.

No. 551. October 13, 1913. To Auditor of State:

In the construction of public buildings, the Board of Administration must limit itself to the amount of the appropriation,

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and the money must be spent for the purpose for which it was appropriated.

No. 562. June 30, 1915. To Auditor of State:

The labor of inmates of penal and correctional institutions under the management of the Ohio Board of Administration may be used in construction work at any state institution under the management of the Board. Similarly, building materials manufactured at any state institution may be used in such construction work. The cost of state labor and materials so used is not to be counted as part of the total cost of an improvement within the meaning of section 2314 G. C., and succeeding sections, constituting the building regulations, applicable generally, and when advertising for bids thereunder the board of administration should exclude from the work to be let the performance of such labor as is to be performed by such inmates and the furnishing of such materials as are produced at any such institution. If the total cost of the improvement, less these items, exceeds the sum named in section 2314 G. C., however, the remaining branches of the work should be dealt with as provided in that and succeeding sections.

No. 715. November 12, 1912. To Ohio Board of Administration:

Improvement of land by construction of levée not a general improvement and not affected by this section.

No. 912. October 11, 1915. To Ohio Board of Administration:

Under Section 2317 G. C., bids shall not be opened until the eighth day after the fourth and last publication, and the notice should so state.

No. 935. October 14, 1915. To Secretary, Board of Trustees, Bowling Green Normal School:

No lien can be obtained by contractor or sub-contractor on state buildings. No duty upon part of department or institution erecting state building to retain any moneys from contractors in anticipation of lien.

2333- County Buildings

2450. Op. Atty. Gen. (1918) p. 274.

Where bonds are issued by a county under authority of sections 5638 et seq., General Code, to erect a county children's home costing in excess of twenty-five thousand dollars, a building commission must be appointed under authority of section 2333, General Code.

Where a county building costs in excess of twenty-five thousand dollars, sections 2333 to 2342 General Code do not provide a separate and distinct method of procedure from that provided by sections 2343 to 2366 General Code. All of these

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sections govern the building commission in the construction of such building.

Where the appointment of a building commission is required under section 2333 General Code, the county commissioners have no authority to employ an architect to draw plans for such building, and a contract entered into by the county commissioners for that purpose before the appointment of a building commission is invalid.

Op. Atty. Gen. (1921) p. 708.

Under the provisions of section 2434 G. C., county commissioners are authorized to borrow money and issue bonds for the payment thereof for the purpose of repairing a court house, county jail or county infirmary, such bond issue, however, being subject to the limitations of sections 5638 and 5649-2 et seq. of the General Code.

Opinion of Attorney General, No. 1250. March 8, 1924.

It is my opinion that the common law powers coupled with the selling authority provided in Section 2447 G. C., authorizes such commissioners to lease unused lands. Such a lease it is believed should be made after following the advertising provisions in Section 2447-1 G. C. In an opinion of the Attorney General for the year 1913, page 1335, the power of the commissioners to lease was recognized but it was pointed out that such power should not interfere with the public use.

It is believed that if in the opinion of the county commissioners the county home (infirmary) is not needed for public use on account of the fact that there are not sufficient inmates to justify the expense to maintain the same, it is possible that the commissioners could proceed under the provisions of Section 2447 G. C. to dispose of such property. It would seem that the power to lease such premises would be included within the power to sell, and in the event the commissioners should conclude to lease such premises the same could be done.

2523— County Homes (Infirmaries)

2572.

The superintendent of a county infirmary is not the holder of a public office within the meaning of G. C. §12303, and quo warranto is not the proper remedy to oust him from office: *Palmer v. Zeigler*, 76 O. S. 210 and 229 [affirming *Zeigler v. Palmer*, 10 O. C. C. (N. S.) 545, 20 O. C. D. 292.]

No allowance is to be made to an infirmary director who acts as clerk of the board, other than his per diem compensation for time employed in official duties (see G. C. § 3002): and no allowance can legally be made to him for keeping a record of the proceedings and transactions of the meetings of the infirmary directors: *State v. Brown*, 20 O. C. C. 57, 11 O. C. D. 163.

Whether the directors of the county infirmary and their successors could act as trustees of a trust created by will for

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the benefit of the poor of the county was considered but not decided, since such gift was valid, even if the directors were not proper trustees; and equity could appoint a trustee to administer such trust: *Starr v. Forbes*, 18 O. C. C. (N. S.) 176.

A trust created in a will for the purpose of providing for the inmates of a county infirmary such luxuries as they would not have in the regular administration of the institution, is not illegal or impossible of accomplishment: *Starr v. Forbes*, 18 O. C. C. (N. S.) 176.

Op. Atty. Gen. (1918) p. 948.

The superintendent of a county infirmary is not a public officer and therefore a woman is eligible for appointment to said position.

Op. Atty. Gen. (1921) p. 379.

The levy of six-tenths of a mill mentioned in section 2530 G. C. is not exempt from the limitations of ten and fifteen mills provided by sections 5649-2 et seq. G. C.

Op. Atty. Gen. (1920) p. 861.

By reason of the provisions of section 2541 G. C. no insane person may be received or kept at a county infirmary.

Section 2541 G. C. has not been impliedly repealed by the reference, in such sections as sections 2535 and 2538 G. C. to insane persons in the county infirmary, such reference being attributable to inadvertance on the part of the legislature.

Question of when a person having some property may be admitted or refused admission to a county infirmary, discussed.

See Opinion cited under Section 3152 G. C.

Op. Atty. Gen. (1920) p. 1033.

A person is not ineligible to admission to the county home merely because he or she is a blind imbecile.

The judge of the juvenile court, when satisfied that a blind child is not being properly educated at home, and will be benefited by attendance at the state school for the blind, and that such child is a suitable person to receive instructions therein, may, pursuant to section 7780 G. C., send or commit such child to the state school for the blind in the manner provided by law.

It is not illegal for blind inmates of county homes to perform labor for the Ohio Commission for the Blind at times when their services are not required by the superintendent or matron for the maintenance of the county home or the care of its inmates; nor is it illegal for the county commissioners to permit such inmates to retain for their own use insignificant sums of money received by said blind inmates from the Ohio Commission for the Blind as compensation for such labors.

2934. Soldiers' Relief Commission

Op. Atty. Gen. (1920) p. 725.

A divorced woman is not a "widow" in legal contemplation and the Soldiers' Relief Commission cannot properly recom-

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mend relief to an indigent woman who was once married to a soldier but now divorced.

2943. Soldiers' Burial Plot

Op. Atty. Gen. (1920) p. 1136.

The County Commissioners are not authorized to purchase land and dedicate it for the use of burial of soldiers, indigent or otherwise, but the county soldiers' relief commission may make such purchase under section 2943 et seq. G. C., payment for which shall be made by the warrant of the county auditor from the general county fund.

2950. Soldiers' Burial

Op. Atty. Gen. (1921) p. 48.

County Commissioners are without authority to pay the expenses of soldiers' burials, in the absence of the taking by the burial committee of the steps provided by sections 2950 G. C. et seq.

Op. Atty. Gen. (1919) p. 755.

Where an honorably discharged soldier has been buried by an undertaker, in compliance with a contract, entered into between such undertaker and the township soldiers' burial committee, the county commissioners are not authorized to change such contract and pay the undertaker less than the amount agreed upon, notwithstanding that such soldier dies while an inmate of the county infirmary and the commissioners had a contract with such undertaker to bury inmates from such infirmary for a less sum of money.

2965- County Blind Relief

1967. Op. Atty. Gen. (1919) p. 53.

In order to acquire the residential qualifications essential to an award of blind relief, the applicant must have resided and supported himself within the county for twelve consecutive months without relief under the laws providing for relief of the poor.

A person removing from one county to another, but continuing to receive blind relief from the county of her former abode, does not acquire the residential qualifications entitling him to receive blind relief from the latter county.

2971. County Visitors

The phrase "in any year" used in section 2973 G. C. has reference to the year of the official term, which is fixed in section 2971 G. C. to be "three years beginning upon the first day of May" each year.

The actual expenses incurred in an amount not to exceed one hundred dollars in any year is to be expended from May 1st to May 1st or during the official year. Op. Atty. Gen. (1920) p. 1041.

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3070— Children's Homes

3108. The provisions of G. C. §2444, which require county commissioners to publish notice of their intention to purchase any lands or erect any building thereon, do not apply to proceedings under this section and the following sections for the purchase of land for a children's home: State, ex rel., v. Auditor, 43 O. S. 311.

Where a county or a district maintains a children's home under the provisions of G. C. §§3077, et seq., and G. C. §§3109, et seq., the county commissioners in their capacity as the board of managers thereof are liable in their official capacity for negligence in maintaining such institution, independent of the provisions of G. C. §2408: Crawford v. Commissioners, 1 Ohio App. 54, 21 O. C. C. (N. S.) 416, 25 O. C. D. 203 [reversed without opinion, Commissioners v. Crawford, 90 O. S. 433].

Where the employee of a children's home is injured by the negligence of a superior servant under such circumstances as would ordinarily create a liability between employer and employee, such employee may maintain an action against the county commissioners in their official capacity for damages arising therefrom: Crawford v. Commissioners, 1 Ohio App. 54, 21 O. C. C. (N. S.) 416, 25 O. C. D. 203 [reversed without opinion, Commissioners v. Crawford, 90 O. S. 433].

3077. Op. Atty. Gen. (1919) p. 1151.

A county childrens' home established under sections 3077 G. C., et seq., is an institution established by a political subdivision of the state, involving the interests or care of children within the meaning of Sec. 4 of Art. XV of the Constitution of Ohio.

By reason of said constitutional provision, a woman or women may be legally appointed to a board of trustees of a county children's home.

Op. Atty. Gen. (1919) p. 148.

Sections 3077 to 3108 G. C., providing for the establishment and maintenance of children's homes by counties, do not authorize the board of trustees of the home to purchase an automobile for the use of the superintendent thereof.

Op. Atty. Gen. (1921) p. 604.

A bequest of money "to the children's home of _____ county, Ohio," may lawfully be paid to and received by the county commissioners in trust for the support of the home."

3085. Op. Atty. Gen. (1918) p. 1124.

Under the provisions of section 3085 G. C., the trustees of a county children's home have authority in law to assign duties other than those provided for in said section, to the matron and other employes of the home, and to pay such compensation for the services to be rendered, as they may, in their judgment,

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consider to be fair and just. Such assignment of duties and fixing of compensation should be done by resolution or by-laws.

3088. Op. Atty. Gen. (1918) p. 1553.

The phrase "semi-public children's home" appearing in sections 3088, 7676, 7677, 7678 and 7681 of the General Code refers to institutions established and maintained by private donations but operated by or under public authority as exemplified by Sections 3070 et seq. and 3110 G. C. Charitable institutions wholly under private management, though open to all on the same terms, are not such institutions.

3090. Op. Atty. Gen. (1918) p. 1597.

The mere fact that a juvenile court does not accompany its order to the superintendent of the children's home, to admit a certain minor thereto, with a statement of facts as set forth in section 3090 G. C., does not warrant the superintendent in refusing to admit the child.

When a juvenile court removes, from a children's home, a child theretofore committed to the home by it, all duties and obligations of the home in reference to said child thereby cease.

When a child is so removed from a children's home by the juvenile court, the trustees of the home are no longer under obligation to make the visitations provided for in Sections 3093 and 3099 G. C.

The board of trustees of a children's home is the proper body to decide whether or not a child is suitable for the home. The power of the juvenile court to commit to the home is merely incidental to its duties under the juvenile act. An exception to this general rule is found in Section 3091 G. C.

Op. Atty. Gen. (1922) p. 148.

Section 1653 G. C. while authorizing commitments by the juvenile court of dependent and neglected children to the care of suitable private individuals of good moral character, makes no provision in such cases for payment by the county commissioners of the board of such committed children.

3092. Op. Atty. Gen. (1922) p. 148.

Section 3092 G. C. as amended in 109 O. L. p. 533, confers no authority upon county commissioners to pay the board of neglected and dependent children committed by the juvenile court to the care of private families or individuals in counties where a county children's home is provided.

3092-1. Opinion of Attorney General, No. 1250, March 8, 1924.

It is within the discretion of the county commissioners as to the use to be made of said premises, so long, of course, as such use is a proper use.

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Reynolds vs. Commissioners, 5 Ohio, 204:

Where real estate is vested absolutely in the county commissioners for public purposes they may dispose of it in the same manner as individuals could.

This case specifically recognized the authority of commissioners to lease county lands, and was cited in an opinion of the Attorney General found in the Reports of 1921, page 183, as authority to authorize the sale of lands used for agricultural fairs when title was in the county on account of the abandoning of the lands for fair purposes. It is further pointed out in said opinion that such lands could be sold under the provisions of Section 2447 or held for public benefit.

3104- Op. Atty. Gen. (1921) p. 569.

3105. trustees of county children's homes, may lawfully purchase,

Under the provisions of sections 3104 and 3105 G. C. the when they deem it expedient, an automobile truck for the use of the superintendent of said home, provided the estimate and appropriation for such purchase are made in conformity to the requirements of said sections.

3108-1. Semi-Public Homes.

Op. Atty. Gen. (1921) p. 430.

County commissioners are authorized under the provisions of sections 3108-1 and 14654 G. C. to lend financial assistance to incorporated societies whose object is the care, aid and education of neglected or destitute children, towards purchasing land or the erection of buildings to serve the purpose of a home for such children.

3127- County Hospitals

3138-2. Op. Atty. Gen. (1919) p. 852.

Under sections 3127 et seq. (108 O. L., Page 255, House Bill 305) county commissioners are not authorized to construct poly-clinics the main use and purpose of which is not that of a county hospital.

Op. Atty. Gen. (1918) p. 648.

When viewed from the standpoint of the indigent poor, the county commissioners would have no authority to provide a temporary hospital to treat persons suffering from a disease known as trachoma, for the reason that the relief needed is temporary in nature and not permanent.

When viewed from the standpoint of a contagious disease, the county commissioners seem to have no authority in law to provide a temporary hospital to treat persons suffering from a disease known as trachoma. This duty rests upon the township and municipal authorities.

Op. Atty. Gen. (1921) p. 582.

Where, pursuant to section 3137 G. C. (108 O. L., Part I, p. 258), the trustees of a county hospital find and determine

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that patients presented to said hospital for treatment are "subjects for charity", said trustees are without authority to present to the county commissioners bills for the treatment of such patients, and the county commissioners are without authority to pay said bills from county funds. Said bills should be paid by the hospital trustees from the maintenance fund provided for said hospital by section 3133 G. C.

Op. Atty. Gen. (1920) p. 220.

Under the amendments to the county hospital law (108 O. L., Part I, 225), the first board of trustees of the hospital is to be appointed by the governor within ten days after receipt by him of the certification of the canvassing board as to the result of the election. This board of trustees serves until the hospital is completed, when its successors are to be appointed by the county commissioners.

Such board is to consist of four members, two of whom are to be of the dominant political party in the county and two of whom must belong to the party receiving the next highest number of votes in the county for governor at the next preceding election.

Such members are to serve without compensation.

Op. Atty. Gen. (1921) p. 1186.

Hospital trustees have authority to expend money raised under section 3133 G. C. without any action being taken by the county commissioners.

3139- Tuberculosis Hospitals

3153. Op. Atty. Gen. (1918) p. 1086.

Where a number of counties have formed themselves into a district for the purpose of erecting and maintaining a tuberculosis hospital, there is no authority in law for a dissolution of said organization, or for discontinuing the activities for which the district was organized.

Op. Atty. Gen. (1918) p. 1594.

The officers and employes of a district tuberculosis hospital created under Sections 3148 et seq. G. C. (107 O. L., 497), do not come within the provisions of the civil service act (Sections 486-1 to 486-31 inc. G. C.)

General Code §§ 3148 to 3153 (100 v. 87), which provide for the establishing and maintaining of district tuberculosis hospitals, are valid and constitutional: *Brissel v. State, ex rel.*, 87 O. S. 154.

General Code § 3148 provides for the creation of a specific subdivision of the state, and the formation therein, of a joint board for the purpose of establishing and maintaining a district hospital for the care and treatment of persons suffering from tuberculosis. When the joint board provided for in that section has been duly formed in accordance therewith and has thereafter proceeded with the performance of the duties im-

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3139- posed on it by the statute, each of the counties whose commis-
3153. sioners have joined in the formation of such joint board has obligations in connection with the matter which are fixed and defined by the statute and which can not be terminated at the will of such county: *Brissel v. State, ex rel.*, 87 O. S. 154.

Since the legislature in G. C. §§ 3148 to 3153 has expressly authorized the location and construction of district tuberculosis hospitals, the courts can not say that the location and construction of such a hospital building constitutes a nuisance per se. The fact that the petition to enjoin such construction alleges that the hospital will be operated in such a way as to amount to a nuisance, does not authorize the court to enjoin its construction. Such action is brought prematurely and it can not be proper until after such hospital is constructed and it is in fact operated in such improper manner; in which case the court will enjoin such careless and negligent operation: *State, ex rel., v. Brenner*, 6 Ohio App. 209, 28 O. C. A. 329, 30 O. C. D. 246 [affirmed, in memorandum opinion, *State, ex rel., v. Brenner*, 96 O. S. 598, on authority of *Brissel v. State, ex rel.*, 87 O. S. 154].

Op. Atty. Gen. (1919) p. 964.

A person who is otherwise eligible to admission to a district tuberculosis hospital cannot be denied admission thereto on the sole ground that he has passed the incipient state of the disease.

It is the duty of the township trustees under sections 3476 and 3480 G. C. to afford support and relief, including medical attention, to an indigent person suffering with tuberculosis, until he becomes a county charge as provided for by section 2544 G. C. unless in the meantime he is received into the district tuberculosis hospital, whereupon the expense of his care and treatment therein should be met by the county commissioners under section 3152 and 3152-1 G. C.

A person suffering with tuberculosis who has become a county charge under section 2544 G. C., may be cared for by the superintendent of the county infirmary outside of the infirmary until such time as he shall be admitted into the district tuberculosis hospital.

***Op. Atty. Gen.* (1920) p. 602**

Under section 3141-1 G. C. (108 O. L., p. 230, Part I) construed with section 3141-2 (Amended Senate Bill 195, 108 O. L. Part II) and 3148 (108 O. L. Part I, p. 252), where a county has joined in the erection of a district tuberculosis hospital, and in which such hospital there is not suitable accommodations afforded, and where the trustees of such hospital have failed and refused to provide additional accommodations and because of such conditions such county, under sections 3148 et seq., has withdrawn from such district tuberculosis hospital and sold its

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- 3139-** of health, may use the proceeds of such sale to erect and main-
3153. interest therein, such county, with the consent of the state board
tain a county tuberculosis hospital.

Op. Atty. Gen. (1921) p. 100.

Educational facilities for children of compulsory school age, confined in tuberculosis hospitals, should be provided by the authorities in charge of such institutions.

Op. Atty. Gen. (1922) p. 52.

Where a county has joined in the erection of a district hospital and thereafter withdraws from said district and disposes of its interest therein, as provided in G. C. section 3148 and conditions as outlined in G. C. section 3141-1 exist, said county may expend the money derived from such sale for the erection of a county tuberculosis hospital.

Op. Atty. Gen. (1919) p. 613.

The provision of section 3153 G. C. (107 O. L. 498) that the board of trustees of a district hospital for tuberculosis shall appoint a "suitable person medical superintendent," requires that a person be appointed who possesses the qualifications of a person authorized to practice medicine in the state, and who has had experience with tuberculosis.

Op. Atty. Gen. (1920) p. 854.

Under section 3152 G. C., county commissioners of counties composing a tuberculosis hospital district may not borrow money or issue bonds for the purpose of replenishing or paying back to the maintenance fund of the district hospital moneys expended from said maintenance fund for betterments to the hospital of such district.

Op. No. 459, June 18, 1923.

County commissioners under section 5655 General Code may borrow money in anticipation of current revenues for the fiscal year to pay the operating expenses of a county tuberculosis hospital.

If a county has no funds which can be transferred under G. C. § 5669, it is nevertheless the duty of such county to provide sufficient funds by taxation to comply with the statute for establishing and maintaining a district tuberculosis hospital (G. C. §§ 3148 to 3153). This section provides that if a county has not sufficient funds available for furnishing and equipping a county tuberculosis hospital, under G. C. §§ 3139 to 3147, the commissioners shall levy and set aside the sum necessary; and it is applicable to district tuberculosis hospitals under G. C. §§ 3148 to 3153: *Brissel v. State, ex rel.*, 87 O. S. 154.

Op. Atty Gen. (1919) p. 1465.

The county commissioners of a county which is a member of a tuberculosis hospital district have no authority to borrow money to contribute to the current expenses of the hospital in case the tax levies for the year prove insufficient.

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3157- Jails

3180. General Code § 3178, which provides for the appointment of a jail matron, does not relieve the sheriff from the duty to take charge of the jail which is imposed upon him by this section: State, ex rel., v. Cooper, 12 O. N. P. (N. S.) 659, 23 O. D. (N. P.) 200.

This section confers on such probate judge a discretion which can not, in the absence of gross abuse, be controlled or directed by writ of mandamus: State, ex rel., v. Robeson, 3 O. N. P. (N. S.) 5, 15 O. D. (N. P.) 471.

If this section, in providing for the appointment of a jail matron, were to create a public office, it would be unconstitutional under Art. X, § 1, of the constitution of Ohio, which provides that the general assembly shall provide by law for the election of such county officers as may be necessary; and under Art. X, § 2, of the constitution of Ohio, which provides that county officers shall be elected: State, ex rel., v. Cooper, 12 O. N. P. (N. S.) 659, 23 O. D. (N. P.) 200.

By the provision of G. C. § 2997, the sheriff of the county is entitled to the money received for keeping and feeding federal and city prisoners where such prisoners are placed in his custody for federal and city authorities under contracts which prescribe a charge therefor which is not higher than that which is fixed by G. C. § 2850 for feeding and keeping state prisoners: State, ex rel., v. Hirstius, 15 O. N. P. (N. S.) 505, affirmed; State, ex rel., v. Hirstius, 25 O. C. C. (N. S.) 177.

Under G. C. § 3179 a federal court may lawfully sentence one convicted of contempt to imprisonment in a county jail of Ohio: Swepston v. United States, 251 Fed. 205, 163 C. C. A. 361, 63 Bull. 375.

3476- Poor Relief

3496. See citations under Section 2541 G. C.

See citations under Sections 3127 and 3152 G. C.

Op. Atty. Gen. (1920) p. 1177.

Permanent partial outside relief to indigent persons should be afforded by the township or city, rather than by the county, unless the applicants for such relief are persons "whose peculiar condition is such they cannot be satisfactorily cared for except under county control."

Op. Atty. Gen. (1920) p. 250.

Section 4410 G. C., as amended in 108 O. L., 248, does not impose the duty of caring for the sick poor upon the municipal health district board exclusively, nor does it relieve the township trustees of their duties under section 3476, as amended in 108 O. L., 272.

Op. Atty. Gen. (1919) p. 1236.

By the provisions of House Bill No. 150, 108 O. L., 266, the obligation to provide temporary or "outdoor" relief for the poor rests upon the township or municipality in cases of such poor

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3476- persons as have legal settlement therein; while in case of such
3496. persons requiring more than temporary relief, it is provided that upon proper ascertainment of that fact the county shall assume the obligation providing permanent relief, which shall only be provided, however, at the county home, except in case of persons whose peculiar conditions require that they be cared for under county control, and yet, on account of their physical condition or otherwise, may not be proper subjects for admission into the home, and persons whose physical condition will not permit their removal to the county home, in which cases the county shall provide necessary relief outside of the county home.

In addition to the obligation to provide permanent relief, the county is to provide temporary or outside relief for those persons who have not the residential qualifications for township or municipal relief and whose condition requires less than the permanent relief to be provided only at the county home.

Op. Atty. Gen. (1918) p. 1654.

A person has a legal residence in that county in which he has continuously resided for a period of twelve consecutive months and during said period has not received any relief under the provisions of law for the relief of the poor.

If the proper authorities of a county in which a person has a legal residence refuses to accept such person from a county to which he has later removed, and said latter county furnishes necessary relief to the person, then said county has a right of action against the county in which the person has a legal residence for expenses so incurred in furnishing relief.

Op. Atty. Gen. (1918) p. 240.

In those counties having no county infirmary, the township trustees of the various townships must afford relief to the indigent poor, whether said indigent poor be located outside or within the limits of a municipality in the township.

In those cases in which the boundaries of a city become co-terminous with the boundaries of a township, the district or ward physicians if any have been appointed, and if not, the director of public safety, must afford medical relief to the indigent poor of said city who are sick, and the director of public safety in all cases must afford relief to the indigent poor of said city who are not sick.

In villages, the boundaries of which are coterminous with the boundaries of a township, the council administers the poor laws, and the marshal and police force might be called to the aid of council in the administration thereof.

Op. Atty. Gen. (1921) p. 332.

Where an indigent person is a legal resident of the county, the expenses of the burial of such person should be paid by the township in which he had a legal residence at the time of his death; but if such person was also a legal resident of a municipi-

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pal corporation, the expenses of his burial should be paid by the municipal corporation and not by the township wherein such corporation is situate.

Op. Atty. Gen. (1918) p. 345.

When complaint is made in a proper case to the township trustees, that a person in the township requires public relief, it is the duty of the township trustees to afford such relief, even if such person has a legal settlement under the poor laws in an adjoining county.

In such case, upon failure or refusal of the township trustees to afford such relief, any person can afford same, giving the notice required in section 3480 G. C., and such township shall be liable for the expense thereof and must look to the county of the person's legal settlement for reimbursement therefor.

3496. No. 1860. August 19, 1916. To the Ohio Board of Administration:

Post-mortem examinations of the remains of patients who die in the Ohio Hospital for Epileptics, whose remains are claimed by the husband, wife or next of kin, may be made without the consent of the husband, wife or next of kin only in those cases in which it is supposed that death resulted by violence, whereby an inquest is required to be had.

No. 435. June 11, 1912. To Prosecuting Attorney, Toledo Ohio:

Burial of paupers dying in benevolent or charitable institutions; when duty of county.

No. 288. May 12, 1919. To the Prosecuting Attorney of Holmes County:

Where a non-resident pauper dies in a state benevolent institution, the county commissioners of the county from which he was sent are required to reimburse the board of administration for the expenses incurred in his burial, except when the body is delivered in accordance with the provisions of Section 9984 G. C.

3963. Water Supply

January 14, 1922. To the Department of Public Welfare:

State institutions are not entitled to free water service from municipally owned water-works.

Recent decision of the supreme court in the case of the Village of Euclid, et al. v. Camp Wise Association, in which case it was held that by reason of the adoption of Section 4, Article XVIII of the Constitution of 1912, municipalities may acquire, construct, own, lease and operate waterworks free from any restrictions imposed by sections 3963 and 14769 of the General Code and in so far as they require free service to charitable institutions are in conflict with Section 26, Article II of the Constitution of Ohio, requiring laws of a general nature to have

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uniform operation throughout the state, and therefore inoperative.

See Section 14769.

4148- Workhouses

4153. Op. No. 445, June 13, 1923.

Municipalities in a county in which a city maintains a workhouse, may not commit persons for violations of state laws or municipal ordinances to a workhouse situated in another county.

4436- Quarantine

4444. Op. Atty. Gen. (1918) p. 1509.

Section 4436 G. C., and not Section 3480, should be made to apply in a case where a resident of a village is quarantined by the board of health of said village and said person so quarantined is in need of medical attention and is unable to pay for the same.

Op. No. 460, June 18, 1923.

It is not necessary to certify quarantined persons as indigent poor, as provided for in sections 3476 and 3496, before such expenses can be collected from the township or municipality, as provided for by section 4436.

A municipality is required to pay the bills of a quarantined person residing within such municipality, under section 4436, when such person is unable to pay.

It is the duty of the authority who is to pay such bills to determine whether such quarantined person is able to pay or not. Whether or not the quarantined person is unable to pay is a question of fact which would depend upon the particular circumstances in each case, and such determination should be made at the time the bill is presented for payment.

6251- Legal Advertising

6255. No. 212. April 7, 1915. To Prosecuting Attorney, Cincinnati, Ohio:

A notary fee on an affidavit in proof of publication is not a public charge unless made so by statute, and the expense thereof is to be borne by the publisher.

No. 374. May 11, 1915. To Bureau of Inspection and Supervision of Public Offices:

Each advertisement is to be measured by the "em quad" of type used.

7676- Education of Children in Children's Homes

7681. The board of education of a school district, in which is located a county detention home, established in conformity with section 1670 G. C., has authority to forbid the attendance of the inmates of the county detention home at the public schools of the district, since section 1670 G. C. provides that the superintendent and matron in a county detention home shall be persons "qualified as teachers of children". Op. Atty. Gen. No. 2492, October 20, 1921.

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See Opinions of Attorney General (1920), p. 751 cited under Section 7787.

Op. No. 64, February 10, 1923.

The board of education of a school district, in which is located a county, semi-public or district children's home, when employing a teacher or teachers for a school maintained at the home, is required to have the approval of the superintendent of the home before the employment is complete under section 7676 G. C. Such approval is not necessary, however, before dismissal of said teacher or teachers may be made. Neither is such approval of the superintendent necessary before discontinuing a teaching position or reducing the number of teachers at such home.

Where children of school age, inmates of a private children's home or orphan asylum, have attended the public schools of the school district in which such home or asylum is located, such school district is entitled to recover from another district in the state of Ohio where such children had a residence immediately prior to becoming inmates of such home or asylum the expense of such attendance based upon the average per capita cost of the elementary schools of the district where such home is located, not including improvements and repairs: State, ex rel., v. Sherman, 104 O. S. 317.

Where the superintendent of a school district, where a private home is located, in which children from another county are cared for, furnishes the county auditor a detailed report of the average per capita cost and the county auditor certifies the amount thereof to the auditor of the county of such children's last residence, it is the duty of the county auditor receiving such certificate to issue his warrant on the county treasurer of the same county for such amount payable to the school district entitled thereto, and mandamus will lie to compel the performance of such duty: State, ex rel., v. Sherman, 104 O. S. 317.

7755. Instruction of Deaf, Blind and Crippled Children

It is the mandatory duty of the board of education of the district in which a crippled child resides to provide for his transportation to the school to which he has been or should be assigned, either within or without the district, if the child is so crippled that he is unable to walk to school. Op. Atty. Gen. No. 3226, June 16, 1922.

8023- Adoption

8035. Op. Atty. Gen. (1918) p. 121.

A woman obtained a divorce from her husband. By the terms of the decree she was awarded the custody of their child and he was required to contribute to its support. This he did, residing in the same community for one year, when he left and concealed his whereabouts and has not been heard from.

Held, that this constitutes an abandonment by him of his

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- 8023-** child and that the mother is qualified, under section 8024, to give
8035. the legal consent to the adoption of the child.

Op. Atty Gen. (1920) p. 1038.

The statutes of Ohio do not require, as a condition of the adoption of a minor child, either that said child be a citizen of the United States, or that its natural parents, or either of them, be citizens.

By reason of section 8589 G. C., aliens stand on the same footing with citizens of the United States, as far as the right under the laws of Ohio to inherit property is concerned.

The statute authorizing the adoption of children, construed in connection with the general statutes regulating descents and distribution of personal estates, the personal estate of an adopted child, dying intestate and leaving its natural mother, its adopted parents and children of the adopting parents surviving it, passes to the natural mother to the exclusion of the adopting parents and their children born in lawful wedlock: *Upson v. Noble*, 35 O. S. 655.

An oral contract for adoption whereby the adopting parents agree to devise and bequeath both real and personal property to the adopted child, is unenforceable by reason of its failure to comply with the statute of fraud (G. C. § 8621), and the performance of such oral contract by giving up the custody of such child takes the case out of the statute of fraud: *Shahan v. Swan*, 48 O. S. 25.

The provision of G. C. § 10504 to the effect that a bequeath to benevolent, religious, educational, or charitable purposes and the like, is invalid, unless made one year prior to the death of the testator, if he dies having issue of his body or adopted child living, applies to a child adopted under this section: *Theobald v. Fugman*, 64 O. S. 473.

The rule that in the interpretation of a will the testator must be presumed to have meant what he said requires that a devise of a remainder "to the heirs at law" of a beneficiary for life be regarded as including an adopted child of the beneficiary, although there was not, when the will was executed or when testator died, any statute for the adoption of children: *Smith v. Hunter*, 86 O. S. 106.

A child which is adopted in another state has capacity to inherit land situated in this state: *Simpson v. Simpson*, 9 O. C. C. (N. S.) 137, 19 O. C. D. 503.

Op. Atty. Gen. (1918) p. 1250.

The Board of State Charities is not authorized in law to give consent to adoption provided for in section 8025 G. C. But it would be authorized to give the consent under the conditions as provided for in section 8024 G. C.

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8023-

Op. Atty. Gen. (1921) p. 955.

8035.

Under the provisions of section 8025 amended by House Bill No. 91, 109 O. L. 177, in adoption proceedings, written consents are required by child sought to be adopted if more than thirteen years of age; also by parent awarded custody of child by divorce decree together with the court's approval of such parent's consent.

When the natural parents of children sought to be adopted, are living and under no legal disability to assume parental custody over the same, their written consent to the adoption proceedings is a necessary statutory requirement of section 8025 G. C.

An Ohio probate court is without jurisdiction to act in adoption proceedings where parties in interest are non-residents of the state of Ohio, and a former decree unrevoked of a court of another state has awarded the custody of said minor to a foster parent. Such court originally determining such matters has a continuing jurisdiction in the same.

The right to inherit from a foster parent was not defeated by the absence from the proceedings of adoption of assent thereto on the part of both of the natural parents: *Taylor v. Bushnell*, 29 O. C. A. 497, 31 O. C. D. 488 [motion for an order directing court of appeals to certify its record overruled, *Taylor v. Bushnell*, 17 O. L. R. 4, 64 Bull. 112].

If proceedings in adoption were had without securing the consent of the mother, who was under none of the disabilities prescribed in P. & A. § 8024, such proceedings must be set aside on a motion of an interested party: *In re Olson*, 3 O. N. P. 305, 3 O. D. (N. P.) 668.

Contracts, either verbal or written, made for purpose of transferring custody of minors from parents to third persons, with actual custody given, if binding upon the adult parties to them at all, could not prevail as against the interests of the child and as against his wishes if he had reached years of discretion: *Gray v. Field*, 10 Dec. Rep. 170, 19 Bull. 121.

February 20, 1923. To the Department of Public Welfare:

Written consent of parents of child over thirteen necessary requirement of the statute; or written consent of those standing in the place of natural parents, before child can be legally adopted.

This section and G. C. §8030 are to be construed together; and the provision of this section to the effect that the adopted child is to all legal intents and purposes the child of the petitioner, are repeated so as to avoid any possibility of mistake, in the provision of G. C. §8030, to the effect that such adopted child shall be the child and legal heir of the person so adopting him: *Ransom v. Railway*, 93 O. S. 223.

The primary and paramount purpose of this section is to make an adopted child the equal of a natural child "to all legal

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- 8023-** intents and purposes": *Kroff v. Amrhein*, 94 O. S. 282 [affirming, *Kroff v. Amrhein*, 5 Ohio App. 37, 27 O. C. A. 193, 29 O. C. D. 57].
- 8035.**

Since by the provisions of this section and G. C. § 8030, an adopted child is the child of the adopting parent to all intents and purposes, and is the legal heir of such adopting parents: if such adopted child dies before its adopting parents, leaving a child surviving, such surviving child inherits by representation such share of the property of such adopting parents as such adopting child would have inherited in case such adopting parents die intestate: *Kroff v. Amrhein*, 94 O. S. 282 [affirming *Kroff v. Amrhein*, 5 Ohio App. 37, 27 O. C. A. 193, 29 O. C. D. 57.]

Under the federal statute for the recovery of damages for wrongful death by personal representatives, and also under the Ohio statutes on the same subject, the words "parents" and "children" are used without limit or qualification and include adopting parents and adopted children, as well as natural parents and natural children: *Ransom v. Railway*, 93 O. S. 223.

The exception in the last sentence of G. C. § 8030, to the effect that if an adopted child dies without issue after the adopting parent, the property of the adopting parent shall descend to his next of kin and not to the kin of the adopted child, shows that for all other purposes such adopted child is in law the child of the adopting parent; since the expression of one exception is the exclusion of all others: *Ransom v. Railway*, 93 O. S. 223.

The provision of this section to the effect that an adopted child shall have "all the rights and privileges" of a child of such person begotten in lawful wedlock, can not be construed as if it were "all the personal rights and privileges." No authority exists for excluding property rights by construction: *Kroff v. Amrhein*, 94 O. S. 282 [affirming *Kroff v. Amrhein*, 5 Ohio App. 37, 27 O. C. A. 193, 29 O. C. D. 57].

A written contract, entered into by the parent of an infant child with strangers, by the terms of which the latter agreed to adopt such child, perform the duties and obligations of parents to such child, and further agreed that such child should inherit from each all property which she would be entitled to inherit if she were their own child, will be specifically enforced by requiring the person to whom the legal title has descended to convey the property in accordance with the terms of the contract, when such contract has been fully performed on the part of such child: *Snyder v. Shuttleworth*, 5 Ohio App. 137, 25 O. C. C. (N. S.) 545, 27 O. C. D. 234.

Where a child from an orphanage is taken into a home upon an agreement that she is to receive a good common school education, be cared for and treated as a daughter, and after she becomes of full age she continues to reside in the family

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8023- and perform the same household duties as before, without any agreement as to compensation, it will be presumed that it was a continuance of the earlier relationship and she can not recover for the value of such services, even if the evidence shows that she never was treated as the children of such family were treated, but that her position was rather that of a menial servant. The fact that the head of such family told such child to tell others that she was receiving four dollars per week as wages, and that such head of the family also told such child that such head of the family was putting money in the bank for such child, no specific amount being specified, is not such a contract for compensation as to enable such child to recover: *Ambler v. Chapman*, 22 O. C. C. (N. S.) 458.

If the adopting parent dies leaving such adopted child, a bequest to a charitable or educational purpose by will, executed within a year prior to the death of the testator, is invalid under G. C. §10504: *Theobald v. Fugman*, 64 O. S. 473.

A court of common pleas, having made an order concerning the disposition of a minor child of parents involved in divorce proceedings has continuing jurisdiction of such child, precluding a juvenile court from taking independent jurisdiction thereof. If the best interests of the child demand a change of custody the proper procedure is by application to the common pleas court to modify its former order: *Orphan Asylum v. Soule*, 5 Ohio App. 67, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing *In re Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].

A father placed his minor child in an orphanage association, agreeing to pay a stipulated sum weekly for its support. He also agreed that if he failed to pay the weekly charge for three consecutive months after the same became due he would relinquish all his rights, interest and control of his child and vest the same in the association, so that it should have all the rights to and authority over the child which he had by reason of being its father. The association cared for and supported the child for over a year, until there was due it quite a sum which the father neglected to pay. He then began proceedings in habeas corpus to recover possession of his child, and the association answered that it was entitled to the child under the terms of the agreement. It was held that the agreement was unilateral, not binding the association to care for and support the child and so unenforceable by it, and further, the fact that the father was in debt for the care of his child did not show that he had abandoned it: *Christian Orphanage v. Barcus*, 16 O. C. C. (N. S.) 93, 25 O. C. D. 151.

This section and G. C. §§ 1647 and 1648, conferring on juvenile courts authority to determine cases involving delinquent, neglected and dependent children, do not supersede G. C. §11987, empowering common pleas courts to make orders for the dis-

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- 8023-** position, care and maintenance of children of parents involved in divorce proceedings: *Orphan Asylum v. Soule*, 5 Ohio App. 67, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing *In re Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].
- 8035.**

The principle that the court first obtaining jurisdiction of a subject-matter retains exclusive jurisdiction and authority until final disposition, applies to jurisdiction of a dependent child, concerning which a common pleas court has made an order for the custody in divorce proceedings, and a juvenile court has no authority to make and order for the disposition of such child: *Orphan Asylum v. Soule*, 5 Ohio App. 67, 24 O. C. C. (N. S.) 151, 26 O. C. D. 135, 60 Bull. 449 (Ed.), 60 Bull. 473 (Ed.) [citing *In re Crist*, 89 O. S. 33; *Children's Home v. Fetter*, 90 O. S. 110].

If the child has no estate, the custody of the child cannot be taken from the parents if they are fit and suitable persons and are able to care for the child; and if it is sought to take a child from the custody of its parents, they are entitled to notice and opportunity for hearing in court before such order is made: *In re Baier*, 8 O. N. P. 107, 11 O. D. (N. P.) 47.

An appeal will lie from a judgment or order of a court for the care, custody and maintenance of minor children regardless of whether such order is made in an action for divorce, divorce and alimony or alimony only, or in proceedings under the provisions of this section: *Bower v. Bower*, 90 O. S. 172 [overruling second paragraph of syllabus in *Rogers v. Rogers*, 51 O. S. 1].

In case of the separation of parents, the custody of an epileptic son who is twenty years of age and an inmate of an epileptic hospital will be granted to the father, the evidence showing that he is a suitable and proper person to look after the interest of such child: *Patterson v. Patterson*, 12 O. N. P. (N. S.) 601, 57 Bull. 273 (Ed.).

Other things being equal, the custody of a little girl of tender years should be awarded to her mother, but where the mother shows little affection for the child she will be given to the father: *Schultz v. Schultz*, 18 O. C. C. (N. S.) 402.

Under G. C. § 8033, the welfare of the child is only a relative consideration and the father will be awarded custody over the claims of a maternal grandmother where there is no evidence of such general unfitness of the parent as would be a danger to the welfare of the child: *In re Lutkehaus*, 22 O. N. P. (N. S.) 120.

If the probate court after acquiring jurisdiction over a minor finds that its best interests require that it should be committed to the children's home and orders it to be so committed and there cared for, educated and kept in custody until further orders of the court and the child is so committed, with-

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- 8023-** out making an express finding that the child is dependent, in a later proceeding in habeas corpus the common pleas court will not inquire whether the action of the probate court was sustained by the evidence taken for it: *State v. Mezgar*, 59 Bull. 45 (Ed.).
- 8035.**

Where the probate court after acquiring jurisdiction over a minor orders it to be committed to the children's home of the county and there kept in custody until the further order of the court without making an express finding that the child is dependent and later awards custody of the child to its mother, a subsequent habeas corpus proceeding brought by the father against the mother to common pleas court will not award the custody of the child to the father on the ground that the action of the probate court was illegal, since the jurisdiction of the probate court over the child continues during its minority: *State v. Mezgar*, 59 Bull. 45 (Ed.).

If a divorce is granted the court should make all necessary orders for the support and care of minor children, whether such question is presented in the pleadings or not: *Bower v. Bower*, 90 O. S. 172; *Monahan v. Monahan*, 14 Ohio App. 116.

In a proceeding for divorce and for the custody of minor children, the court of common pleas has jurisdiction to order the father to pay to the clerk of the court a certain sum each month "which said money shall be kept intact by said clerk of court for the future use and benefit of said minor children, until further order of this court"; and if the father of such children refuses to make such payments, and he is committed to jail for contempt, he can not be discharged on habeas corpus because of lack of jurisdiction: *Rhynard v. Gardner*, 7 Ohio App. 262, 28 O. C. A. 194, 30 O. C. D. 175, 63 Bull. 13 (Ed.) [citing *Bly v. Smith*, 94 O. S. 110].

In a divorce and alimony proceeding, an allowance of a specific sum of money per week for the maintenance of minor children having been granted, the court has power to make such modification of the order as the necessity of the case demands, regardless of the form of the motion by which the original action was taken: *Monahan v. Monahan*, 14 Ohio App. 116.

Calling an allowance for the support of minor children "alimony," in a motion for an order to increase it does not change its nature: *Monahan v. Monahan*, 14 Ohio App. 116.

Jurisdiction as to the custody of children is inherently equitable in its nature, and is given to the court of appeals under the section of the constitution establishing that court, and it follows that appeal lies from an order in a divorce proceeding affecting the custody of minor children, notwithstanding the provision of G. C. § 12002: *Varsey v. Varsey*, 25 O. C. C. (N. S.) 229, 26 O. C. D. 385.

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9984. Deceased Inmates

See citations under Section 3496 G. C.

Op. Atty. Gen. (1922) p. 60.

The county commissioners may contract with the managing officers of a municipal workhouse wherein they agree to provide the burial expense of an inmate who dies therein whose body has not been claimed by relatives or delivered for dissecting purposes under the provisions of section 9984 G. C.

In the event an inmates dies in a municipal workhouse who has been sentenced thereto from a county and whose body is not claimed by friends or delivered for dissecting purposes, in the absence of an agreement between the commissioners of the county from which said convict has been committed and the management of such workhouse to the effect that the county is to bear such burial expense, such burial should be made at the expense of the workhouse.

Op. Atty. Gen. (1919) p. 506.

Where a non-resident pauper dies in a state benevolent institution, the county commissioners of the county from which he was sent are required to reimburse the board of administration for the expenses incurred in his burial, except when the body is delivered in accordance with the provisions of section 9984 G. C. See section 3496 G. C.

The next of kin of a decedent have the right to determine the place and manner of burial: *Smiley v. Bartlett*, 6 O. C. C. 234, 3 O. C. D. 432.

This section does not apply to cemetery associations, nor to the trustees thereof; and it does not apply to the remains of persons which have been buried for a long time, and which are subsequently removed or disturbed by reason of a change in the purpose to which land is put (see G. C. §§ 12689 to 12692): *Carter v. Zanesville*, 59 O. S. 170.

10062- Humane Society

10084. Op. Atty. Gen. (1918) p. 389.

There is no such thing as a society for the prevention of cruelty to animals which is not also a society for the prevention of cruelty to children, as all such societies are required to be formed for both of said objects. Such societies do not require the certificate of the board of state charities in order to render their incorporation lawful.

Op. Atty. Gen. (1918) p. 389.

The act of taking temporary possession of a mistreated child under section 10081 G. C. does not make such society subject to annual certification of the board of state charities.

Op. Atty. Gen. (1918) p. 390.

The provision of the juvenile court law so modifies section 10083 G. C. that it is no longer necessary to comply with that

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provision thereof requiring a child to be placed under the care of a humane society or its agent.

11181. Marriage of Minors

A marriage entered into in this state, when the wife is less than sixteen years of age, becomes irrevocable by cohabitation at the time, and after she arrives at that age; she may also ratify the marriage in other ways: *Holtz v. Dick*, 42 O. S. 23.

The marriage contract of one affected with congenital imbecility of mind, to a degree rendering him incapable of consent, is void ab initio. A court of chancery, in the exercise of its ordinary powers, will entertain jurisdiction, at the suit of imbecile's guardian, to declare such marriage a nullity: *Waymire v. Jetmore*, 22 O. S. 271.

Marriage of a person under guardianship, consented to by guardian, and death of husband before steps to annul the marriage, marriage valid: *McLeary v. Barcalow*, 6 O. C. C. 481.

If a girl of the age of seventeen is induced to marry a man much older than herself with whom she is but slightly acquainted, by his persistent solicitation, which overcomes her will and such marriage takes place without the knowledge or consent of her parents and no cohabitation follows, and such girl on the contrary repudiates such marriage promptly, the court will declare such marriage a nullity: *Moser v. Long*, 8 Ohio App. 10, 27 O. C. A. 145, 28 O. C. D. 288.

A divorce granted for fraud in the marriage contract concealing defendant's congenital insanity from the plaintiff, is not void because the act was committed while insane, for if the defendant was insane when he committed the fraud, the marriage is void: *Benton v. Benton*, 16 O. C. C. (N. S.) 121, 26 O. C. D. 613.

Where the parties to a marriage in this state arrive at the common law age of consent, and also arrive at a period when they are man and woman, the parents have no authority to compel a separation, on the ground that such wife had not, at the time of the marriage, arrived at the age of sixteen years, and that the marriage was without the parents' consent: *Holtz v. Dick*, 42 O. S. 23.

12110- Bastardy Proceedings

12134. A bastardy prosecution is only quasi criminal, and if in the name of the state should be on the complaint of the real party, but it would be more proper to carry on the suit in the name of the party complaining: *Devinney v. State*, W. 564.

The prosecuting attorney is not bound to attend to bastardy suits, though brought in the name of the state: *Devinney v. State*, W. 465.

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The fact that G. C. § 12123 provides only for the maintenance of an illegitimate child as a result of a proceeding in bastardy, tends to show that a duty of support, maintenance and education which is imposed by G. C. § 1655 applies only to legitimate children: *Creisar v. State*, 97 O. S. 16.

12161— Habeas Corpus

12189. An award of the custody of the child in a divorce case to the mother is no bar to habeas corpus by the father against others than the mother: *In re Coons*, 20 O. C. C. 47, 11 O. C. D. 208.

Ill treatment by a stepmother is not sufficient ground to deprive a father of the custody of his child unless he countenanced the same: *In re Muench*, 20 O. C. D. 350, 11 O. C. D. 124.

Children under ten years of age are to be awarded to the mother unless particular unfitness is shown. Children over ten electing the father as custodian will be awarded to him unless the mother proves his unsuitableness. Where there is intense feeling between the parties the court will not find that unsuitableness is proven without evidence of specific acts: *Vincent v. Vincent*, 6 O. N. P. 474, 8 O. D. (N. P.) 160.

If a wife leaves her husband and takes her child, she can not retain it as against her husband without showing that she did not desert him without grave cause, if he is a fit person to have it: *State, ex rel., v. Nishwitz*, 1 Dec. Rep. 370, 8 W. L. J. 396.

If a wife separated from her husband voluntarily relinquished to him the custody of a child of tender years, the court will not restore it to her unless the good of the child requires it: *State, ex rel., v. Nishwitz*, 1 Dec. Rep. 370, 8 W. L. J. 396.

The court which first acquires jurisdiction in divorce cases can alone decree as to the custody of children and habeas corpus lies to determine which custody is best for the child: *In re Talbot*, 8 Dec. Rep. 744, 9 Bull. 271.

The custody of younger children, other things being equal, will be awarded to the mother subject to the revocation, if she puts them in any institution or other charge: *State, ex rel., v. Niles*, 11 Dec. Rep. 248, 25 Bull. 327.

Habeas corpus lies by a mother against the father for the custody of a child: *State, ex rel., v. Niles*, 11 Dec. Rep. 248, 25 Bull. 327.

The full faith and credit clause of the constitution, when applied to a case involving the custody of a child, will not prevent the courts of another state making a different order on later facts: *In re Barnes*, 11 Dec. Rep. 848, 30 Bull. 164.

A judgment determining the custody of a child will not prevent a different judgment on habeas corpus on a material change of circumstances since its rendition: *In re Barnes*, 11 Dec. Rep. 848, 30 Bull. 164.

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- 12161-** Habeas corpus lies when a minor is committed without notice to county visitors: *Girls' Industrial Home v. Steffen*, 7 O. N. P. 409, 9 O. D. (N. P.) 696.
- 12189.**

In a proceeding in habeas corpus brought by one to whom the custody of minor children has been committed by the court of common pleas in a proceeding instituted before it for divorce and for the custody of such minor children, an answer to the writ to the effect that the applicant was not a suitable person to have the control of such children does not confer upon the court which issues the writ jurisdiction to hear and determine such question: *In re Crist*, 89 O. S. 33.

The probate courts of this state acting as juvenile courts under the provisions of G. C. §§1639, et seq., are courts of record, and their judgments, where jurisdiction of the person and subject-matter has been acquired and no fraud has intervened, are conclusive and can be assailed in no other court in an independent proceeding: *Children's Home v. Fetter*, 90 O. S. 110.

An action in habeas corpus in the court of common pleas can not be maintained to secure the custody of a child committed by the juvenile court as a dependent: *Bleier v. Crouse*, 13 Ohio App. 69, 31 O. C. A. 453, 32 O. C. D. 439.

Children having been placed in a children's home under commitments of a court having competent jurisdiction, by proceedings regular in all particulars, a writ of habeas corpus can not issue from another court on the ground that such children are unlawfully restrained of their liberty, where there is no showing in the habeas corpus proceeding that the commitments by which the children are held are void for illegality and where no proceeding in error was prosecuted from the court of domestic relations on the ground of irregularity: *In re Crouse*, 14 Ohio App. 274.

Habeas corpus lies when a minor is committed without notice to parents: *State, ex rel., v. Stiles*, 12 O. D. (N. P.) 338.

A writ of habeas corpus will be refused under and order of the probate court, made during the term, suspending a former legal commitment to children's home: *In re Blake*, 14 O. D. (N. P.) 89.

The claim of the government over-rides that of the parent as in the case of a minor over eighteen enlisting in the United States army: *In re Disinger*, 12 O. S. 256.

No. 287. April 10, 1912. To Superintendent, Cleveland State Hospital:

Under section 12189 G. C., costs of habeas corpus proceedings for release of an inmate of a state hospital are chargeable to the state and the superintendent may not be held for same.

An insane person in any asylum is entitled to habeas corpus under G. C. §1976, to test the question of sanity, and the

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- 12161- court must allow the writ to issue, and hear the question there-
12189. on, and should not hear it upon the application for the writ.
In re Gunning, 14 O. C. C. 507, 7 O. C. D. 443.

A father who has been committed to jail for contempt, because he refused to make certain payments to the clerk of the court to provide for his children, upon the order of the court in a divorce proceeding can not be discharged on habeas corpus because of lack of jurisdiction: Rhynard v. Gardner, 7 Ohio App. 262, 28 O. C. A. 194, 30 O. C. D. 175.

Habeas corpus lies to test the validity of a statute when it is the sole cause of imprisonment: In re Kline, 6 O. C. C. 215, 3 O. C. D. 422.

A judgment in an action for alimony, or a judgment finding a party guilty of contempt for failure to comply with the order of the court in such judgment for alimony, can not be attacked collaterally in a proceeding in habeas corpus: Bly v. Smith, 94 O. S. 110.

In habeas corpus proceedings, where the right to the custody of a minor child is involved, the welfare and best interests of the child are the chief objects to be obtained; and the parents, if suitable persons, are entitled to the custody of the child against its statutory guardian, provided the best interests and welfare of the child are thereby obtained: State, ex rel., v. Madden, 12 O. D. (N. P.) 83.

The order of the court must have sole reference to the best interests of the child and neither parent has any rights in conflict with its welfare: Gishwiler v. Dody, 4 O. S. 615; in re Barnes, 11 Dec. Rep. 848, 30 Bull. 164.

When the court of common pleas, on rendering a decree of divorce, further decreed the custody of the children to one of the parties, a probate court, while the decree is in force, can not interfere by habeas corpus or by letters of guardianship. Hoffman v. Hoffman, 15 O. S. 427.

In cases other than those of controverted custody, the allegation of unlawful "restraint of liberty," or words of precisely the same import, is essential in the application to give the court jurisdiction. The defect is not cured by amendment, nor waived by appearance of respondent and a trial; Hence, in habeas corpus for a child, if the relator does not claim the right of custody, but merely acts on its behalf, an averment that it is illegally restrained and possessed by respondent is fatally defective even after trial, for as a child must be in some one's custody, want of liberty is not necessarily alleged: in re Curd, 9 Dec. Rep. 182, 11 Bull. 186.

Where a justice of the peace has committed to jail a parent charged with nonsupport of his child to await action of grand jury, on habeas corpus by such parent evidence dehors the

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record may be heard to show want of jurisdiction in said justice to make such order: *Ex parte Wyant*, 8 O. N. P. (N. S.) 207.

Where a delinquent child has become a ward of the juvenile court and it has been committed to an institution, under the provisions of the General Code relating to the juvenile court, a proceeding in habeas corpus by a parent against the institution or its officers for the custody of the child will not lie: *Children's Home v. Fetter*, 90 O. S. 110.

Habeas corpus will not lie to secure the discharge of a minor who was indicted for a felony and convicted in the court of common pleas, but did not challenge the jurisdiction of the court until motion for new trial, or prosecute error, on the ground that he was under eighteen years of age and should have been first taken before the juvenile court, in accordance with the provisions of G. C. § 1659: *In re Pharr*, 10 Ohio App. 395. 31 O. C. A. 465.

Although habeas corpus must be brought where the defendant resides, yet if the court in a divorce case awards the custody of children to one of the parties and such children are not within the jurisdiction, the court may issue such writ to any county as an ancillary proceeding to enforce its judgment: *State, ex rel., v. Speidel*, 1 Dayton Term Rep. (Iddings), 17; *In re Talbot*, 8 Dec. Rep. 744, 9 Bull. 271.

13608.- Criminal Proceedings When Prisoner is Insane

13614. (See opinions cited under Section 1985 et seq.)

No. 480. July 27, 1917. To the Prosecuting Attorney, Ironton, Ohio:

The costs incurred in determining whether or not a person is sane under Section 13608 G. C. are part of the costs in the criminal case. Witness fees are payable out of the county treasury under Section 3014 G. C. If the prisoner does not recover his sanity and the indictment is nollied, the officers' fees are payable as in cases of state failure. If the prisoner does recover his sanity and the trial proceeds upon the indictment and the prisoner is acquitted, the officers recover their fees as in cases of state failure. If the prisoner is convicted and sentenced to the penitentiary or reformatory, the costs are paid by the state.

No. 1677. January 8, 1919. To the Prosecuting Attorney, Cincinnati, Ohio:

Where a person is found to be insane after indictment, and before sentenced, the probate judge, when receiving a certificate to this effect, must commit such person to the Lima Hospital, where he must remain until he is restored to reason.

Op. Atty. Gen. August 27, 1923, to the Department of Public Welfare.

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13608-

13614.

A person who has committed a crime and whose insanity was suggested at the time of arraignment, may not be sentenced to Lima State Hospital for the reason that he was not indicted and acquitted on the sole ground that he was insane. (Section 13679 G. C.)

Council for the accused may not before sentence obtain a second trial upon the issue of insanity under G. C. 13608, especially where it is not shown that the accused had become insane since his previous trial under that section: *Rehfeld v. State*, 102 O. S. 431.

The trial provided by this section has nothing to do with determining the sanity of the accused at the time he committed the offense. *State v. O'Grady*, 3 O. N. P. 279, 5 O. D. (N. P.) 654.

If three-fourths of the jury find the prisoner insane it is sufficient to authorize a verdict. *State v. O'Grady*, 3 O. N. P. 279, 5 O. D. (N. P.) 654.

Before one who has been found insane and committed pursuant to G. C. section 13608, et seq., can properly be convicted, the record should show a compliance with this section; and an affidavit of the superintendent of an insane asylum that the accused was not insane, made after the person has been tried and convicted, is not a compliance with this section: *Brock v. State*, 22 O. C. C. 364, 12 O. C. D. 467.

The record of a probate court showing that four years previous to the commission of a crime the accused was adjudged insane and confined in an asylum is admissible: *Wheeler v. State*, 34 O. S. 394.

Op. Atty. Gen. (1918) p. 1659.

Where a person is found to be insane after indictment, and before sentenced the probate judge, when receiving a certificate to this effect, must commit such person to the Lima hospital, where he must remain until he is restored to reason.

The provisions of this section are mandatory and the mode prescribed for determining insanity is preemptory and exclusive. When therefore, the counsel for the defendant during the progress of a trial suggests to the court that the defendant is not then sane and presents the certificate of a "reputable" physician to that effect, it is error for the court to refuse to impanel a special jury to pass upon the insanity of the accused. Such error is not cured by a general charge to the jury as follows: "If you think that you have not heard all of the truth in the case, because of the defendant's mental condition and that you believe you are not justified because of that fact in finding him guilty, you may acquit him": *State v. Roselot*, 69 O. S. 91. The only parts of G. C. §§ 13608, et seq., adopted by G. C. §§ 13577 and 13614 are the parts that relate to the procedure to determine the sanity or insanity of the accused. Said parts in

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no wise control G. C. §§ 13577 and 13614 in the order to commit the person so found to be insane: *State, ex rel., v. Clark*, 102 O. S. 404.

Counsel for the accused may not before sentence obtain a second trial upon the issue of insanity under G. C. §13608, especially where it is not shown that the accused had become insane since his previous trial under that section: *Rehfeld v. State*, 102 O. S. 431.

The trial provided by this section has nothing to do with determining the sanity of the accused at the time he committed the offense: *State v. O'Grady*, 3 O. N. P. 279, 5 O. D. (N. P.) 654.

13706- Probation

13710. No. 866. September 24, 1915. To Ohio Board of Administration:

Prisoner convicted of non-support and transferred to Lima entitled to provisions of this section.

If a defendant in a criminal prosecution who has been found guilty and who has been sentenced contends that the court ordered the sentence to be suspended but neglected to enter such suspension of record, the order of such court in overruling an application for a *nunc pro tunc* entry suspending such sentence is a conclusive adjudication that no order of suspension was made. If such refusal is erroneous such defendant may prosecute error; but he can not enjoin the sheriff from enforcing such sentence: *Witters v. Browne*, 8 Ohio App. 310, 28 O. C. A. 237, 29 O. C. D. 441.

An application for suspension of sentence under G. C. § 13706, should be made before the defendant has prosecuted error; and an application for the suspension of sentence to enable the defendant to prosecute error, waives his right to apply for the suspension of sentence under G. C. §13706: *State v. Vourron*, 18 O. N. P. (N. S.) 581.

The provisions for placing a criminal upon probation, which are found in this section and in G. C. §§ 13713 and 13715, confer such power upon the state board of administration, and tend to show that the courts have no power, in the absence of statutory authority, to place criminals upon probation, or to suspend sentences: *State v. Radcliffe*, 18 O. N. P. (N. S.) 273, 26 O. D. (N. P.) 87.

The words "within the longest period for which the defendant might have been sentenced" in G. C. § 13714, refer to "judgment"; and in case of suspension of sentence under G. C. § 13711 for not more than two years, the court may terminate such suspension if the accused has violated his parole; and then impose sentence with the longest period for which accused might have been sentenced in the first instance: *In re Nunley*, 102

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O. S. 332 [see to opposite effect, *In re Pontius*, 6 Ohio App. 249, 26 O. C. C. (N. S.) 178, 29 O. C. D. 28, 14 O. L. R. 487 (Ed.), 61 Bull. 367 (Ed.)].

12960- Offenses Against Minors

13007. A parent may be guilty of the crime of failing to provide for his minor children although he is a resident of another state during the time laid in the indictment, and the venue of the crime is in the county where the children are when the complaint is made: *State v. Sanner*, 81 O. S. 393.

The legal and ordinary acceptance of the word "parent" does not include a step-father or step-mother, and under the rule that criminal statutes must be strictly construed it follows that prosecution does not lie against a step-father, under § 12970 for failure to provide for his step-children: *State, v. Barger*, 14 Ohio App. 127, 32 O. C. A. 30.

In a criminal prosecution against a father for failing to furnish necessary and proper food, clothing and shelter for a child, evidence is insufficient which shows that the child was taken by its mother to her parents "on a farm" without showing in what county, state or country such farm is: *Noonan v. State*, 16 O. C. C. (N. S.) 243, 26 O. C. D. 577.

In order to convict for failure to furnish necessary and proper food, clothing and shelter for a child, the state must show that the offense was committed within the county where the trial was had: *Noonan v. State*, 16 O. C. C. (N. S.) 243, 26 O. C. D. 577.

In a prosecution under G. C. § 12428, against a father for cruelly and unlawfully punishing his child, it is not proper to charge the jury that the father is the judge as to the mode and severity of the punishment and can not be found guilty for error in judgment, even if the punishment was excessive, nor unless the jury should find he was prompted by malice and ill-will toward the child: *Mohr v. State*, 19 O. C. C. (N. S.) 43.

In the prosecution of error proceedings in an action by a wife against her husband under G. C. § 12970, for failure to provide for their minor child, service of summons in error upon the wife's attorney or waiver of service by him does not give the reviewing court jurisdiction; and the state can be brought into court only by service on or waiver of service by the prosecuting attorney or some one duly authorized by him to act in that behalf: *Stryk v. State*, 25 O. C. C. (N. S.) 166.

In a prosecution for torture, the offense is insufficiently described by an affidavit charging unlawful, willful or cruel torture, even though aided by the words by "beating and striking said person with a stick": *Martin v. State*, 11 O. N. P. (N. S.) 183.

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12960- Op. Atty. Gen. (1919) p. 348.

13007. In permitting a minor under the age of eighteen years, who is a member of the Lima Y. M. C. A., to play pool and billiards therein, the officials of said Y. M. C. A. do not violate the provisions of section 12962 G. C. Opinion limited, however, to the precise facts of the query.

Op. Atty. Gen. (1918) p. 1203.

Under section 12967 G. C. any person selling a gun or ammunition to a minor under seventeen years of age, or knowingly permitting such minor to use his gun, is liable to prosecution under said section, even though such minor has a hunter's license.

Before a school-teacher can be convicted of torture in punishing a pupil, it must be shown that the punishment administered was immoderate and excessive, and that the teacher was actuated by malice express or implied: *Martin v. State*, 11 O. N. P. (N. S.) 183.

A parent is liable under this section for administering corporal punishment to a child if the punishment is beyond the bounds of reason or humanity, or by the use of an improper instrument or with excessive severity or without due regard to the age and physical and mental condition of the child: *State v. Kalish*, 7 O. L. R. 447.

It is no defense to a prosecution against the father for failing to properly maintain his children that an agreement was entered into between him and his wife, by which the wife was given the custody of their minor children, and agreed for a valuable consideration to support them, and that after the mother became unable to support the children, the accused offered to support them if the mother would surrender their custody, which she refused to do: *Bowen v. State*, 56 O. S. 235.

The intent of this section is to secure the trial of parents, charged with having failed to cause their children to attend school, within the district where the offense occurs and the court may insert proper punctuation to give that effect to the section: *Grahn v. State*, 9 O. D. (N. P.) 816.

A parent who sends his child to a public school and is willing to continue to do so, but the child is excluded for failure to comply with a rule of the board of education requiring vaccination, is not liable to conviction under the compulsory education act: *State v. Turney*, 12 O. C. C. (N. S.) 33, 21 O. C. D. 222.

(The child may however be placed under other guardianship if its education is not provided for by the parent.)

Op. Atty. Gen. (1922) p. 554.

Where children between the ages of 6 and 15 are employed during the vacation of the public schools in weeding by hand

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fields planted to vegetables such as onions, such employment constitutes a violation of sections 12976, 7765, 7766-6, 7766-9, and 7770-2 of the General Code, and other sections relating generally to the employment of minors of school age as amended in 1921. It is unlawful to employ a child under 14 years of age at any time except for irregular service not involving confinement nor continuous physical strain, nor more than four hours work in any day or twenty-four hours in any week, such work to be interrupted with rest or recreation periods. The application of various other statutes relating to the employment of minors in industry to such state of facts considered.

13008. Maintenance of Minors—Non-Support

13021. (See Citation under Section 2148-9.)

Op. Atty. Gen. (1920) p. 1145.

Commitments to the Ohio Reformatory for Women under the provisions of section 13031-17 G. C. (108 O. L., Part 1, p. 731) are to be regarded as felony commitments, and are "for an indeterminate period of time not less than one nor more than three years in duration." With said section, the provisions of section 2148-9 G. C. are entirely consistent.

Commitments to the Ohio Reformatory for Women under the provisions of section 13031-17 G. C. (108 O. L. Part 1, p. 732) are to be regarded as misdemeanor commitments, and are, pursuant to the provisions of said section, "for not more than one year." Said section is in the nature of an exception to the general rule for misdemeanor commitments stated by section 2148-9 G. C.

Op. Atty. Gen. (1919) p. 443.

A justice of the peace may not remit a penalty imposed by him and order a person sentenced to a term of imprisonment to be released after such sentence has gone into execution.

The words "within the longest period for which the defendant might have been sentenced" in G. C. § 13714, refer to "judgment"; and in case of suspension of sentence under G. C. § 13711, for not more than two years, the court may terminate such suspension if the accused has violated his parole; and then impose sentence with the longest period for which accused might have been sentenced in the first instance: in *re* Nunley, 102 O. S. 332 [see to opposite effect, in *re* Pontius, 6 Ohio App. 249, 26 O. C. C. (N. S.) 178, 29 O. C. D. 28, 14 O. L. R. 487 (Ed.), 61 Bull. 367 (Ed.)].

In misdemeanor cases the trial court has power under favor of G. C. § 13711, to suspend in whole or in part the execution of a sentence at any time during the term at which sentence was passed, even though the defendant had entered upon the imprisonment ordered by the sentence: *Antonio v. Milliken*, 9 Ohio App. 357, 29 O. C. A. 305, 31 O. C. D. 33.

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- 13008-** As the punishment provided by this section for failure by
13021. a father to support his illegitimate child may be imprisonment in the penitentiary, this makes such offense a felony, and a justice of the peace therefore has no jurisdiction to try a person accused of violating said section, but is only authorized to conduct a preliminary examination and either discharge the accused or recognize him to appear before the proper court: *McKelvy v. State*, 87 O. S. 1.

Since G. C. § 12372 provides that offenses which may be punished by death or imprisonment in the penitentiary are felonies and that all other offenses are misdemeanors, a prosecution under this section for a failure by a father to support his illegitimate child is a prosecution for a felony, since the punishment under such statute may be imprisonment in the penitentiary or the jail, at the discretion of the court. The fact that such crime may be punished as a misdemeanor does not alter its character as a felony: *McKelvy v. State*, 87 O. S. 1.

A parent who is able by reason of property, labor or earnings to provide care or maintenance of his child under sixteen years of age, may be convicted of failure to support his illegitimate child without proof of notice that the child is in need or of a demand or request that such care or maintenance be provided: *Elem v. State*, 5 Ohio App. 12, 24 O. C. C. (N. S.) 296, 26 O. C. D. 376.

Where a wife has secured a divorce, alimony and custody of a minor child, the husband is not thereby relieved from liability for prosecution under this section: *Schuman v. State*, 6 O. N. P. 244, 9 O. D. (N. P.) 513.

A parent may be guilty of the crime of failing to provide for his minor children although he is a resident of another state during the time laid in the indictment, and the venue of the crime is in the county where the children are when the complaint is made: *State v. Sanner*, 81 O. S. 393.

In a petition for a writ of habeas corpus by a citizen of Kentucky imprisoned in Ohio for failure to provide for his minor child then being in Ohio, where it appears that the petitioner's wife abandoned him in Kentucky and took the child with her into Ohio against the will of the petitioner who at all times was willing to support them, and that the child is provided for by the mother or by persons at her request, the mere failure of the defendant to assert his legal right to the custody of his minor child does not bring him within the laws of Ohio relating to the duties of parents to their minor children: *In re Poage*, 87 O. S. 72.

In order to convict for failure to furnish necessary and proper food, clothing and shelter for a child, the state must show that the offense was committed within the county where the

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trial was had: *Noonan v. State*, 16 O. C. C. (N. S.) 243, 26 O. C. D. 577.

If the wife of A obtains a divorce from him while he is a resident of Portage county and she then moves to Medina county taking A's minor children with her under a decree of the court which awards her the custody of the children, and A then remarries and moves to Summit county, he may be prosecuted in Medina county for neglecting and refusing to provide for his minor children under sixteen years of age with proper home, care, food and clothing: *Moore v. State*, 18 O. C. C. (N. S.) 482, 24 O. C. D. 487.

A court has no authority to pronounce, as part of the sentence of a prisoner convicted of failing to support his minor child, that he stand committed until fine and costs are paid, as such offense is a felony under G. C. § 12372, being punishable by imprisonment in the penitentiary: *Smith v. State*, 1 O. C. C. (N. S.) 101, 14 O. C. D. 140.

In a prosecution against a father for failing to support minor children who were awarded to the custody of their mother when she obtained a divorce from the accused for his aggression, it is not error to refuse to charge, "Before you can find the defendant guilty in this case, you must find from the evidence, beyond a reasonable doubt, that the defendant was able by reason of his having means, or of his ability to work and earn money, to provide said children with proper home, care, food or clothing, and that he has knowingly and willfully refused or neglected so to do, after knowledge or notice to him, from the mother or person having the custody of said children to do so;" whether such charge is correct in the abstract or not, since it does not deal with the guilt or innocence of the accused and would not have aided the jury: *Moore v. State*, 18 O. C. C. (N. S.) 482, 24 O. C. D. 487.

13720- Prosecution and Transportation of Convicts

13727. No. 304. April 30, 1915. To Auditor of State:

The auditor of state is required to issue his warrant for the proper costs of conviction and transportation of a person sentenced for a felony to the penitentiary or reformatory upon the delivery of the person to the warden or superintendent, and a proper certification of such costs and transportation, notwithstanding that the execution of such sentence may be subsequently suspended by order of the court.

See opinion No. 230 cited under Sec. 2212-2215 G. C.

MISCELLANEOUS

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No. 472. June, 1912. To Ohio Board of Administration:
Disposition of children born in state institution.

The illegitimate children born of girls who are inmates of the girls' industrial school, should be placed in the children's home of the county or district of the residence of the mother before her confinement in the institution. If such county has no children's home, then the county commissioners of such county should be notified to provide for them. The father of the child should be required to pay for the keeping of the child.

The officers of the institution, or of the county, township or municipality, that is supporting and keeping such child may enter into an agreement with the acknowledged father for the payment of the expense of keeping such child.

The board of administration, through its officers, or through the managing officer of the institution should notify the superintendent of the children's home, or the county commissioners to provide for such dependent children.

The children of married women should be turned over to the father, if he is the husband of the mother, and is able to provide properly for such child. In the case of unmarried women in the hospitals for the insane, the child should be disposed of as in the case of children of the inmates of the girls' industrial school.

If the Board of Administration or the managing officer of an institution, have knowledge, or have reason to believe that the criminal laws of the state have been violated in connection with the wards of the state, the facts should be laid before the prosecuting attorney of the county wherein the offense was committed, so that the same may be investigated and prosecutions brought by him as he deems best.

No. 496. September 12, 1913. To Probate Judge, Youngstown, Ohio:

Guards and parole officers not permitted to carry concealed weapons until they have filed the bond required by law.

No. 1819. June 21, 1916. To Superintendent, Ohio Hospital for Epileptics:

No law prohibiting superintendent giving information regarding probable consequences of marriage with patient.

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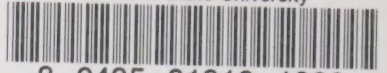
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